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# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 33

**[Doc. No. AMS–FV–14–0022; FV14–33–1 IR]**

## Regulations Issued Under the Export Apple Act; Exempting Bulk Shipments to Canada From Minimum Requirements and Inspection

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** This interim rule revises the regulations issued under the Export Apple Act to exempt bulk shipments of apples to Canada from the minimum requirements and inspection provisions of the Export Apple Act, and to add a definition for bulk containers. The rule is necessary because section 10009 of the Agricultural Act of 2014 amended the Export Apple Act to exempt apples shipped to Canada in bulk containers weighing more than 100 pounds from inspection requirements.

**DATES:** Effective April 7, 2014; comments received by June 3, 2014 will be considered prior to issuance of a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov.* All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

**FOR FURTHER INFORMATION CONTACT:** Jennie M. Varela, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 325–8793, or Email: *Jennie.Varela@ams.usda.gov* or *Christian.Nissen@ams.usda.gov.*

**SUPPLEMENTARY INFORMATION:** Section 10009 of the Agricultural Act of 2014 amended section 4 of the Export Apple Act (7 U.S.C. 584) to add an exemption for apples shipped to Canada in bulk containers, and add a definition for bulk container to section 9 of the Export Apple Act (7 U.S.C. 589).

The Export Apple Act (Act) promotes the foreign trade of U.S. grown apples by authorizing the implementation of regulations with minimum quality, container marking, and inspection requirements. These amendments to the Act require amendments to the regulations in 7 CFR part 33.

Sections 33.10 and 33.11 of the regulations require, in part, that apples shipped to any foreign destination must meet minimum requirements and be inspected by the Federal or Federal-State Inspection Service. Section 33.12 specifies apples not subject to regulation.

This rule implements the amendments to the Act by adding a new § 33.8 (Bulk container) under ''Definitions'' to define a bulk container as a container that contains a quantity of apples weighing more than 100 pounds. This action also revises § 33.12 by adding an additional paragraph exempting bulk shipments to Canada from all requirements under this part.

Thus, any bulk container of apples being shipped to Canada is exempt from the minimum requirements and inspection provisions. Inspection would still be required for apples shipped in containers of less than 100 pounds that are not otherwise exempt.

### Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action has been designated as a ''non-significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has waived the review process.

### Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination With Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

### Executive Order 12988

This interim rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect and shall not abrogate nor nullify any other statute, whether State or Federal, dealing with the same subjects as this Act; but is intended that all such statutes shall remain in full force and effect except in so far as they are inconsistent herewith or repugnant hereto (7 U.S.C. 587).

The Act provides administrative proceedings that must be exhausted before parties may file suit in court. Pursuant to 7 U.S.C. 586 and sections 33.13 and 33.14 of the regulations, any person subject to the Act may file with USDA a request for hearing, along with a written responsive answer to alleged violations of the provisions of the Act and regulations, no later than 10 days after service of notice of alleged violations, and is afforded the opportunity for a hearing on said request. After opportunity for hearing, the Secretary is authorized to refuse the issuance of certificates under this Act for periods not exceeding 90 days.

**Initial Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

Small agricultural service firms, including shippers, exporters, and carriers, are defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

The industry estimates there are approximately 7,500 apple producers in the U.S. The National Agricultural Statistics Service reports the 2012 apple crop was valued at nearly $3.1 billion. Assuming a normal distribution, most apple producers can be classified as small entities. According to industry statistics, there are approximately 60 apple exporters subject to regulation under the Act. Foreign Agricultural Service data estimates the value of fresh apple exports to Canada at approximately $190 million. Assuming a normal distribution, the majority of apple exporters are small businesses. Based on the above calculations, it can be concluded that the majority of apple producers and exporters may be classified as small entities.

This rule is issued under the authority of the Export Apple Act, as amended (7 U.S.C. 581–590). This rule revises ''Regulations Issued Under Authority of the Export Apple Act'' (7 CFR part 33). In accordance with the provisions of section 10009 of the Agricultural Act of 2014, this action exempts apples shipped to Canada in bulk containers from the minimum requirements and inspection provisions issued under the Act. This action also adds the definition of ''bulk container'' as a container that contains a quantity of apples weighing more than 100 pounds.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0143, (Export Fruit Regulations). No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large apple shippers, exporters, or carriers.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this interim rule.

Interested persons are invited to submit comments on this interim rule, including the regulatory and informational impacts of this action on small businesses. Any comments received will be considered prior to finalization of this rule.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule has to be implemented because of amendments by the Agricultural Act of 2014 to the Act; (2) this rule provides a 60-day comment period, and any comments received will be considered prior to finalization of this rule.

**List of Subjects in 7 CFR Part 33**

Apples, Exports, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 33 is amended as follows:

## PART 33—REGULATIONS ISSUED UNDER AUTHORITY OF THE EXPORT APPLE ACT

■ 1. The authority citation for 7 CFR part 33 continues to read as follows:

**Authority:** 48 Stat. 124; 7 U.S.C. 581–590.

■ 2. Section 33.8 is added to read as follows:

**§ 33.8 Bulk container.**

Bulk container means a container that contains a quantity of apples weighing more than 100 pounds.

■ 3. In § 33.12, paragraph (d) is added to read as follows:

**§ 33.12 Apples not subject to regulation.**

* * * * *

(d) Apples shipped to Canada in bulk containers.

Dated: March 12, 2014.

**Rex A. Barnes,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2014–07543 Filed 4–3–14; 8:45 am]

**BILLING CODE P**

## FEDERAL TRADE COMMISSION

## 16 CFR Part 303

## Rules and Regulations Under the Textile Fiber Products Identification Act

**AGENCY:** Federal Trade Commission (''FTC'' or ''Commission'').

**ACTION:** Final rule.

**SUMMARY:** The Commission amends the rules and regulations under the Textile Fiber Products Identification Act (''Textile Rules'' or ''Rules'') to incorporate the updated International Organization for Standardization (''ISO'') standard 2076:2010(E); allow certain hang-tags that do not disclose the product's full fiber content; better address electronic commerce by amending the definition of the terms ''invoice'' and ''invoice or other paper''; update the guaranty provisions by, among other things, replacing the requirement that suppliers provide a guaranty signed under penalty of perjury with a certification, and revising the form used to file continuing guaranties with the Commission under the Textile, Fur, and Wool Acts accordingly; and clarify several other provisions.

**DATES:** The amended Rules are effective on May 5, 2014. The incorporation by reference of the ISO standard 2076:2010(E) is approved by the Director of the **Federal Register** as of May 5, 2014.

**ADDRESSES:** Requests for copies of the amended Rules should be sent to the Public Reference Branch, Room 130, Federal Trade Commission, Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Robert M. Frisby, Attorney, (202) 326–2098, and Amanda B. Kostner, Attorney, (202) 326–2880, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, 600 Pennsylvania Avenue NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:**

### I. Introduction

The Textile Fiber Products Identification Act (''Textile Act'') [1] and

[1] 15 U.S.C. 70 *et seq.*

Rules require marketers to, among other things, attach a label to each covered textile product disclosing: (1) The generic names and percentages by weight of the constituent fibers in the product; (2) the name under which the manufacturer or other responsible company does business or, in lieu thereof, the company's registered identification number (''RN number''); and (3) the name of the country where the product was processed or manufactured.[2] As part of its ongoing regulatory review program, the Commission published an Advance Notice of Proposed Rulemaking (''ANPR'') in November 2011 seeking comment on the economic impact of, and the continuing need for, the Textile Rules; the benefits of the Rules to consumers; and the burdens the Rules place on businesses.[3] The ANPR also sought comment on specific issues, including whether the Commission should amend the Rules to incorporate the revised version of ISO standard entitled ''Textiles—Man-made fibres—Generic names,'' 2076:1999(E); clarify disclosure requirements for products containing elastic material and trimmings; clarify disclosure requirements for written advertising; and modify the Rules' guaranty provisions.

The Commission received 17 comments in response to the ANPR.[4] Based on these comments, the Commission issued a Notice of Proposed Rulemaking (''NPRM'') proposing several amendments addressing fiber content disclosures, country-of-origin disclosures, e-commerce and guaranties, and the Act's coverage and exemptions.[5]

The Commission received seven comments[6] in response to the NPRM, including four from trade associations representing industries affected by the Textile Rules[7] and one each from the European Union,[8] a retailer,[9] and an individual.[10] The joint comment filed by AAFA, AFMA, CAF, NCTO, NRF, USA–ITA, and RILA and the comment filed by Trumbull supported the Commission's proposals to amend § 303.7 to incorporate the latest ISO standard on generic fiber names and to amend § 303.17(b) to allow certain hang-tags that do not provide full fiber content disclosures. These two comments did not address the Commission's other proposals. Three commenters, AAFA, NRF, and Shopbop.com, opposed the Commission's proposal to amend §§ 303.37 and 303.38(a) and (b) to provide that continuing guaranties expire after one year, although NRF supported the Commission's proposal to replace the requirements in §§ 303.37 and 303.38(b) that suppliers sign guaranties under penalty of perjury. These three comments did not address the Commission's other proposals. The Hosiery Association urged the Commission to eliminate the requirement that certain labels stating fiber content disclose ''exclusive of decoration.'' The comment indicated that this disclosure is costly and unnecessary. This comment argued that consumers will know that the content disclosure refers to the basic product and not the decoration; however, the comment did not submit any evidence regarding consumer perception of such labels. The European Commission posed questions and sought clarification regarding the Rules' guaranty provisions and country-of-origin disclosure requirements.[11] Neither the Hosiery Association nor the European Commission appeared to directly address the Commission's proposals.

## II. Amendments

Based on its careful consideration of the record, the Commission amends the Rules' fiber content disclosures, country-of-origin disclosures, provisions addressing e-commerce and guaranties, and exemptions as explained below.

### *A. Fiber Content Disclosures*

The Commission proposed the following amendments to the Rules' fiber content disclosures: (1) Revising § 303.7 to incorporate the updated ISO standard establishing generic fiber names for manufactured fibers; (2) clarifying § 303.12(a) concerning disclosures involving trimmings; (3) revising § 303.17(b) to allow certain hang-tags disclosing fiber names and trademarks, and performance information, without disclosing the product's full fiber content; and (4) clarifying § 303.35, describing products containing virgin or new wool, and §§ 303.41 and 303.42, addressing fiber content disclosures in advertising.

All of the comments addressing the proposed amendments to §§ 303.7 and 303.17(b) supported the amendments. For example, the joint comment stated that the incorporation of the updated ISO standard in § 303.7 would add clarity, afford significant efficiencies, and reduce costs. Moreover, it stated that the associations did not anticipate problems based on differences between ISO and § 303.7 definitions. Based on these comments, and for the reasons set forth in the NPRM, the Commission adopts the proposed amendment to § 303.7.

The joint comment also supported the proposed amendment to § 303.17(b). It stated that, by allowing hang-tags providing fiber information without disclosing the product's full fiber content, the amendment would afford consumers access to important fiber performance information at the point-of-sale and reduce the cost of providing such information. It also agreed with the Commission's proposal to require that any such hang-tag disclose that it does not provide the product's full fiber content, if the product contains any fiber other than the fiber identified on the hang-tag. The joint comment explained that the proposed disclosure requirement is an appropriate and useful action to prevent deception regarding fiber content. Based on the comments supporting this proposal, and for the reasons set forth in the NPRM, the Commission adopts the proposed amendment to § 303.17(b).

None of the comments addressed the proposed amendments to §§ 303.12(a), 303.35, 303.41, or 303.42, all of which involved clarifications rather than substantive changes to the Rules. Accordingly, the Commission adopts all of these proposed amendments without change for the reasons explained in the NPRM.

### *B. Country-of-Origin Disclosures*

The Commission proposed updating § 303.33(d) and (f). Specifically, the Commission proposed to update and clarify § 303.33(d) to state that an imported product's country-of-origin as determined under the laws and

[2] *See* 15 U.S.C. 70b(b).

[3] 76 FR 68690 (Nov. 7, 2011).

[4] The ANPR comments are posted at *http://www.ftc.gov/policy/public-comments/initiative-401.*

[5] 78 FR 29263 (May 20, 2013).

[6] The NPRM comments are posted at *http://www.ftc.gov/policy/public-comments/initiative-485.* The Commission has assigned each comment a number appearing after the name of the commenter and the date of submission. This notice cites comments using the last name of the individual submitter or the name of the organization, followed by the number assigned by the Commission.

[7] Seven associations filed a joint comment (8): the American Apparel and Footwear Association (''AAFA''), American Fiber Manufacturers Association, Inc. (''AFMA''), Canadian Apparel Federation (''CAF''), National Council of Textile Organizations (''NCTO''), National Retail Federation (''NRF''), U.S. Association of Importers of Textiles and Apparel (''USA–ITA''), and Retail Industry Leaders Association (''RILA''). Two of these industry associations also filed separate comments: AAFA (9) and NRF (7). The Hosiery Association (2) also filed a comment.

[8] European Union (4).

[9] Shopbop.com (6).

[10] Trumbull, Agathon Associates (3).

[11] The Commission plans to address these questions when it updates its consumer and business education materials to reflect the amendments to the Rules.

regulations enforced by Customs shall be the country where the product was processed or manufactured. The Commission also proposed to update § 303.33(f) by dropping the outdated reference to the Treasury Department and instead refer to any Tariff Act and the regulations promulgated thereunder. These amendments would revise the Rules to clearly reflect the Commission's longstanding policy of ensuring the consistency of the Textile Rules and Customs regulations.

None of the comments addressed the proposed amendments to § 303.33. Accordingly, the Commission adopts these proposed amendments without change for the reasons explained in the NPRM.

The European Commission posed several questions regarding the Rules' country-of-origin disclosure requirements. The Commission plans to address these questions when it updates its consumer and business education materials to reflect the amendments to the Rules.

*C. E-Commerce and Textile Guaranties*

To better address electronic commerce and concerns about the Rules' continuing guaranty provisions, the Commission proposed amending the definition of the terms *invoice* and *invoice or other paper* in § 303.1(h) and the continuing guaranty provisions in §§ 303.37 and 303.38. Specifically, the Commission proposed to amend § 303.1(h) [12] to: (1) Replace the word ''paper'' with the word ''document''; (2) state explicitly that such documents can be issued electronically; and (3) acknowledge that ESIGN [13] allows for the preservation of records ''in a form that is capable of being accurately reproduced for later reference, whether by transmission, printing, or otherwise.'' [14] The Commission also proposed amending §§ 303.37 and 303.38(b) to replace the requirement that guarantors sign continuing guaranties under penalty of perjury with a requirement that they acknowledge that providing a false guaranty is unlawful, and certify that they will actively monitor and ensure compliance with the Textile Act and Rules. Finally, the Commission proposed amending §§ 303.37 and 303.38(a) and (b) of the Rules to provide that continuing guaranties are effective for one year unless revoked earlier.[15]

None of the comments addressed the proposed amendments to §§ 303.1(h), 303.21, 303.31, 303.36, and 303.38(c). Accordingly, the Commission adopts all of these proposed amendments without change for the reasons explained in the NPRM.

NRF favored the Commission's proposal to replace the requirement in §§ 303.37 and 303.38(b) that guarantors sign under penalty of perjury with the certification requirement described above. None of the other comments addressed this proposal. Accordingly, the Commission adopts this proposed amendment for the reasons explained in the NPRM.

Three commenters, AAFA, NRF, and Shopbop.com, opposed the Commission's proposal to amend §§ 303.37 and 303.38(a) and (b) to provide that continuing guaranties remain in effect for one year unless revoked earlier. None of the comments supported this proposal.

AAFA strongly disagreed with the Commission's assertion that requiring annual renewal of continuing guaranties would impose minimal costs on industry. One AAFA member company reported spending five to eight hours on each continuing guaranty that it files. AAFA explained that most companies file dozens of continuing guaranties and many file hundreds. As a result, AAFA argued, the requirement may be unmanageable for many companies. AAFA also noted that filing guaranties is not the only relevant cost. It stated that vendors face a ''clerical nightmare of keeping up with the guaranties'' and buyers have difficulty obtaining guaranties from the Commission in a timely fashion.

Similarly, NRF argued that the annual renewal requirement would add administrative costs for buyers and guarantors without making guaranties more reliable. It stated that, over the course of a retailer's relationship with a large network of vendors, even the addition of a one-page form annually is a major commitment which will have a significant impact on retailers and the rest of the supply chain.[16]

Like AAFA, Shopbop.com strongly opposed this proposal. It disagreed with the Commission's assertion that the annual renewal requirement would increase the reliability of guaranties. It argued that the mere yearly signing of the same form is unlikely to receive significant additional attention from a guarantor. Additionally, Shopbop.com argued that the requirement would impose significant costs on buyers that purchase products from a large number of sellers, such as most large retailers. It asserted that the process of obtaining guaranties can be extremely time-consuming and costly, and that a buyer can have thousands of sellers that it would need to contact individually. Finally, it noted that none of the comments filed in response to the ANPR advocated this amendment and that the Commission did not cite evidence from its enforcement record or empirical studies supporting the imposition of this requirement.

Two of the above comments disputed the Commission's assertion that an annual renewal requirement would increase the reliability of continuing guaranties, and all three disputed the Commission's assertion that the requirement would not impose significant compliance costs on industry. As noted above, none of the comments supported the proposal. Based on these comments, the Commission lacks sufficient evidence to conclude that the proposal would increase the reliability of continuing guaranties. Assuming, *arguendo,* that the requirement would increase the reliability of continuing guaranties, the Commission lacks sufficient evidence to conclude that the benefits of imposing this requirement would exceed the costs. Accordingly, the Commission has decided not to adopt this proposed amendment.

Nonetheless, the Commission continues to have concerns that continuing guaranties remaining in effect indefinitely or until revoked may become less reliable over time, especially after the employees who originally provided the guaranty to a buyer or filed it with the Commission no longer work for the guarantor. If the Commission obtains evidence that continuing guaranties have become less reliable after this amendment takes effect, it will revisit this issue and

[12] This amendment would also require parallel revisions to §§ 303.21, 303.31, 303.36, 303.38(c), and 303.44.

[13] 15 U.S.C. 7001 *et seq.*

[14] 15 U.S.C. 7001(d)(1).

[15] The Commission also proposed to revise FTC Form 31–A set forth in § 303.38 so that it is consistent with the guaranty provisions as amended. Because this form is also used to provide guaranties under the Fur and Wool Acts and references these Acts, and because there is no reason to treat Fur and Wool guaranties differently than Textile guaranties, the Commission proposed to revise the form's references to Fur and Wool guaranties in the same way. The Commission explained this proposal in its Supplemental Notice of Proposed Rulemaking for the Fur Rules, 78 FR 36693 at 36695–36696 (June 19, 2013), and in its Notice of Proposed Rulemaking for the Wool Rules, 78 FR 57808 at 57812–57813 (Sept. 20, 2013). Section 301.48(a)(3) of the Fur Rules and § 300.33(b) of the Wool Rules provide that the prescribed form for continuing guaranties filed with the Commission is found in § 303.38(b) of the Textile Rules. *See also* Wool Products Labeling Act of 1939, 15 U.S.C. 68 *et seq.* and the Fur Products Labeling Act, 15 U.S.C. 69 *et seq.*

[16] NRF also reiterated its support for amending the Rules to include an alternative to guaranties for purchasers that obtain textile products directly from overseas suppliers that cannot provide guaranties. The Commission addressed this issue in the NPRM.

consider amending the Rules' continuing guaranty provisions accordingly.

*D. Coverage and Exemptions From the Act and Rules*

The Commission proposed clarifying § 303.45 so that paragraph (a) identifies the textile fiber product categories subject to the Act and regulations, with certain exceptions identified in paragraph (b) that are excluded from the Act's requirements. New paragraph (b) provides that all textile fiber products other than those identified in paragraph (a) are excluded. It also identifies a number of other exempted products, some of which fall within the general product categories listed in paragraph (a). The Commission also proposed revising current paragraphs (b) and (c) to reflect the above change and redesignating them as paragraphs (c) and (d), respectively. None of the comments addressed the proposed amendments to § 303.45. Accordingly, the Commission adopts all of these proposed amendments without change for the reasons explained in the NPRM.

**III. Regulatory Flexibility Act Requirements**

The Regulatory Flexibility Act (''RFA'') [17] requires that the Commission conduct an initial and final analysis of the anticipated economic impact of the amendments on small entities. Section 605 of the RFA[18] provides that such an analysis is not required if the agency head certifies that the regulatory action will not have a significant economic impact on a substantial number of small entities.

The Commission believes that the amendments will not have a significant economic impact upon small entities that manufacture or import textile products, although they may affect a substantial number of small businesses. The amendments: (a) Clarify the Rules, including §§ 303.1(h),[19] 303.12(a), 303.33(d) and (f), 303.35, 303.41(a), 303.42(a), and 303.45; (b) amend § 303.7 to incorporate the updated version of ISO 2076, thereby establishing the generic names for the manufactured fibers set forth in the current ISO standard; (c) amend § 303.17(b) to allow manufacturers and importers to disclose fiber names and trademarks and information about fiber performance on certain hang-tags affixed to textile fiber products without including the product's full fiber content information on the hang-tag; and (d) amend §§ 303.36, 303.37, and 303.38 to clarify and update the Rules' guaranty provisions by, among other things, replacing the requirement that suppliers that provide a guaranty sign under penalty of perjury with a certification requirement for continuing guaranties. Therefore, the Commission certifies that amending the Rules will not have a significant economic impact on a substantial number of small businesses.

*A. Need for and Objectives of the Amendments*

The objective of the amendments is to clarify the Rules; incorporate the updated version of ISO 2076, thereby establishing the generic names for the manufactured fibers set forth in the current ISO standard; allow manufacturers and importers to disclose fiber names and trademarks and information about fiber performance on certain hang-tags affixed to textile fiber products without including the product's full fiber content information on the hang-tag; and clarify and update the Rules' guaranty provisions by, among other things, replacing the requirement that suppliers that provide a guaranty sign under penalty of perjury with a certification requirement. The Textile Act authorizes the Commission to implement its requirements through the issuance of rules.

The amendments will clarify and update the Rules, and provide covered entities with additional labeling options without imposing significant new burdens or additional costs. For example, businesses that prefer not to affix a hang-tag disclosing a fiber trademark without disclosing the product's full fiber content need not do so. As revised, the Rules' continuing guaranty provisions will continue to provide for a simple one-page form including information very similar, if not identical, to that currently required.

*B. Significant Issues Raised in Public Comments*

None of the comments disputed the Initial Regulatory Flexibility Analysis in the NPRM, with the exception of the three comments objecting to the proposal to amend §§ 303.37 and 303.38(a) and (b) to provide that continuing guaranties are effective for one year unless revoked earlier. The comments questioned the Commission's assertion that the proposed amendment would enhance the reliability of guaranties and contended that it would impose substantial unnecessary costs on industry. For the reasons explained above, the Commission has decided not to adopt this proposal.

*C. Small Entities to Which the Amendments Will Apply*

The Rules apply to various segments of the textile fiber product industry, including manufacturers and wholesalers of textile apparel products. Under the Small Business Size Standards issued by the Small Business Administration, textile apparel manufacturers qualify as small businesses if they have 500 or fewer employees. Clothing wholesalers qualify as small businesses if they have 100 or fewer employees. The Commission's staff has estimated that approximately 22,218 textile fiber product manufacturers and importers are covered by the Rules' disclosure requirements.[20] A substantial number of these entities likely qualify as small businesses. The Commission estimates that the amendments will not have a significant impact on small businesses because they do not impose any significant new obligations on them.

*D. Projected Reporting, Recordkeeping, and Other Compliance Requirements, Including Classes of Covered Small Entities and Professional Skills Needed To Comply*

As explained earlier in this document, the amendments clarify the Rules; incorporate the updated version of ISO 2076, thereby establishing the generic names for the manufactured fibers set forth in the current ISO standard; allow manufacturers and importers to disclose fiber names and trademarks and information about fiber performance on certain hang-tags affixed to textile fiber products without including the product's full fiber content information on the hang-tag; and clarify and update the Rules' guaranty provisions by, among other things, replacing the requirement that suppliers that provide a guaranty sign under penalty of perjury with a certification requirement. The small entities potentially covered by these amendments will include all such entities subject to the Rules. The professional skills necessary for compliance with the Rules as modified by the amendments would include office and administrative support supervisors to determine label content and clerical personnel to draft and obtain labels and keep records.

*E. Significant Alternatives to the Amendments*

The Commission has not proposed any specific small entity exemption or

[17] 5 U.S.C. 601–612.

[18] 5 U.S.C. 605.

[19] This amendment also involves parallel revisions to §§ 303.21, 303.31, 303.36, 303.38(c), and 303.44.

[20] *Federal Trade Commission: Agency Information Collection Activities; Proposed Collection; Comment Request,* 76 FR 77230 (Dec. 12, 2011).

other significant alternatives, as the amendments simply clarify the Rules; incorporate the updated version of ISO 2076, thereby establishing the generic names for the manufactured fibers set forth in the current ISO standard; allow manufacturers and importers to disclose fiber names and trademarks and information about fiber performance on certain hang-tags affixed to textile fiber products without including the product's full fiber content information on the hang-tag; and clarify and update the Rules' guaranty provisions by, among other things, replacing the requirement that suppliers that provide a guaranty sign under penalty of perjury with a certification requirement. Under these limited circumstances, the Commission does not believe a special exemption for small entities or significant compliance alternatives are necessary or appropriate to minimize the compliance burden, if any, on small entities while achieving the intended purposes of the amendments.

## IV. Paperwork Reduction Act

The Rules contain various ''collection of information'' (*e.g.,* disclosure and recordkeeping) requirements for which the Commission has obtained OMB clearance under the Paperwork Reduction Act (''PRA'').[21] As discussed above, the amendments: (a) Clarify the Rules, including §§ 303.1(h),[22] 303.12(a), 303.33(d) and (f), 303.35, 303.41(a), 303.42(a), and 303.45; (b) revise § 303.7 to incorporate the updated version of ISO 2076, thereby establishing the generic names for the manufactured fibers set forth in the current ISO standard; (c) amend § 303.17(b) to allow manufacturers and importers to disclose fiber names and trademarks and information about fiber performance on certain hang-tags affixed to textile fiber products without including the product's full fiber content information on the hang-tag; and (d) amend §§ 303.36, 303.37, and 303.38 to clarify and update the Rules' guaranty provisions by, among other things, replacing the requirement that suppliers provide a guaranty signed under penalty of perjury with a certification requirement.

None of the comments disputed the PRA analysis in the NPRM, with the exception of the three comments objecting to the proposal to amend §§ 303.37 and 303.38(a) and (b) to provide that continuing guaranties are effective for one year unless revoked earlier. The comments questioned the Commission's assertion that the proposed amendment would enhance the reliability of guaranties and contended that it would impose substantial unnecessary costs on industry. For the reasons explained above, the Commission has decided not to adopt this proposal. In the Commission's view, the amendments it has adopted do not impose any additional significant collection of information requirements. For example, businesses that prefer not to affix a hang-tag disclosing a fiber name or trademark without disclosing the product's full fiber content need not do so.

## List of Subjects in 16 CFR Part 303

Advertising, Incorporation by reference, Labeling, Recordkeeping, Textile fiber products.

For the reasons set forth in the preamble, the Federal Trade Commission amends Title 16, chapter I, of the Code of Federal Regulations, as follows:

## PART 303—RULES AND REGULATIONS UNDER THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT

■ 1. The authority citation for part 303 continues to read as follows:

**Authority:** 15 U.S.C. 70 et seq.

■ 2. Amend § 303.1 by revising paragraph (h) to read as follows:

### § 303.1 Terms defined.

* * * * *

(h) The terms *invoice* and *invoice or other document* mean an account, order, memorandum, list, or catalog, which is issued to a purchaser, consignee, bailee, correspondent, agent, or any other person, electronically, in writing, or in some other form capable of being read and preserved in a form that is capable of being accurately reproduced for later reference, whether by transmission, printing, or otherwise, in connection with the marketing or handling of any textile fiber product transported or delivered to such person.

* * * * *

■ 3. Amend § 303.7 by revising the introductory text to read as follows:

### § 303.7 Generic names and definitions for manufactured fibers.

Pursuant to the provisions of section 7(c) of the Act, the Commission hereby establishes the generic names for manufactured fibers, together with their respective definitions, set forth in this section, and the generic names for manufactured fibers, together with their respective definitions, set forth in International Organization for Standardization ISO 2076:2010(E), ''Textiles—Man-made fibres—Generic names.'' International Organization for Standardization ISO 2076:2010(E), ''Textiles—Man-made fibres—Generic names, Fifth edition, 2010–01–15 is incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Federal Trade Commission must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the Federal Trade Commission, 600 Pennsylvania Ave. NW., Room 130, Washington, DC 20580, (202) 326–2222, and is available from the American National Standards Institute, 11 West 42nd St., 13th floor, New York, NY 10036. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

* * * * *

■ 4. Amend § 303.12 by revising paragraph (a) to read as follows:

### § 303.12 Trimmings of household textile articles.

(a) Pursuant to section 12 of the Act, trimmings incorporated in articles of wearing apparel and other household textile articles are exempt from the Act and regulations, except for decorative trim, decorative patterns and designs, and elastic materials in findings exceeding the surface area thresholds described in paragraphs (a)(3) and (b) of this section. Trimmings may, among other forms of trim, include:

(1) Rickrack, tape, belting, binding, braid, labels (either required or non-required), collars, cuffs, wrist bands, leg bands, waist bands, gussets, gores, welts, and findings, including superimposed garters in hosiery, and elastic materials and threads inserted in or added to the basic product or garment in minor proportion for holding, reinforcing or similar structural purposes;

[21] 44 U.S.C. 3501 *et seq.* The Commission recently published its PRA burden estimates for the current information collection requirements under the Rules. *See Federal Trade Commission: Agency Information Collection Activities; Proposed Collection; Comment Request,* 76 FR 77230 (Dec. 12, 2011) and *Federal Trade Commission: Agency Information Collection Activities; Submission for OMB Review; Comment Request,* 77 FR 10744 (Feb. 23, 2012). On March 26, 2012, OMB granted clearance through March 31, 2015, for these requirements and the associated PRA burden estimates. The OMB control number is 3084–0101.

[22] This amendment would also require parallel revisions to §§ 303.21, 303.31, 303.36, 303.38(c), and 303.44.

(2) Decorative trim, whether applied by embroidery, overlay, applique, or attachment; and

(3) Decorative patterns or designs which are an integral part of the fabric out of which the household textile article is made. *Provided,* that such decorative trim or decorative pattern or design, as specified in paragraphs (a)(2) and (3) of this section, does not exceed 15 percent of the surface area of the household textile article. If no representation is made as to the fiber content of the decorative trim or decoration, as provided for in paragraphs (a)(2) and (3) of this section, and the fiber content of the decorative trim or decoration differs from the fiber content designation of the basic fabric, the fiber content designation of the basic fabric shall be followed by the statement ''exclusive of decoration.''

* * * * *

■ 5. Revise § 303.17(b) to read as follows:

**§ 303.17 Use of fiber trademarks and generic names on labels.**

* * * * *

(b) Where a generic name or a fiber trademark is used on any label providing required information, a full fiber content disclosure shall be made in accordance with the Act and regulations the first time the generic name or fiber trademark appears on the label. Where a fiber generic name or trademark is used on any hang-tag attached to a textile fiber product that has a label providing required information and the hang-tag provides non-required information, such as a hang-tag stating only a fiber generic name or trademark or providing information about a particular fiber's characteristics, the hang-tag need not provide a full fiber content disclosure; however, if the textile fiber product contains any fiber other than the fiber identified by the fiber generic name or trademark, the hang-tag must disclose clearly and conspicuously that it does not provide the product's full fiber content; for example:

''This tag does not disclose the product's full fiber content.'' or

''See label for the product's full fiber content.''

* * * * *

■ 6. Amend § 303.21 by revising paragraphs (a)(3) and (b) to read as follows:

**§ 303.21 Marking of samples, swatches, or specimens and products sold therefrom.**

(a) * * *

(3) If such samples, swatches, or specimens are not used to effect sales to ultimate consumers and are not in the form intended for sale or delivery to, or for use by, the ultimate consumer, and are accompanied by an invoice or other document showing the required information.

(b) Where properly labeled samples, swatches, or specimens are used to effect the sale of articles of wearing apparel or other household textile articles which are manufactured specifically for a particular customer after the sale is consummated, the articles of wearing apparel or other household textile articles need not be labeled if they are of the same fiber content as the samples, swatches, or specimens from which the sale was effected and an invoice or other document accompanies them showing the information otherwise required to appear on the label.

■ 7. Revise § 303.31 to read as follows:

**§ 303.31 Invoice in lieu of label.**

Where a textile fiber product is not in the form intended for sale, delivery to, or for use by the ultimate consumer, an invoice or other document may be used in lieu of a label, and such invoice or other document shall show, in addition to the name and address of the person issuing the invoice or other document, the fiber content of such product as provided in the Act and regulations as well as any other required information.

■ 8. Amend § 303.33 by revising paragraphs (d) and (f) to read as follows:

**§ 303.33 Country where textile fiber products are processed or manufactured.**

* * * * *

(d) The country of origin of an imported textile fiber product as determined under the laws and regulations enforced by United States Customs and Border Protection shall be considered to be the country where such textile fiber product was processed or manufactured.

* * * * *

(f) Nothing in this section shall be construed as limiting in any way the information required to be disclosed on labels under the provisions of any Tariff Act of the United States or regulations promulgated thereunder.

■ 9. Revise § 303.35 to read as follows:

**§ 303.35 Use of terms ''virgin'' or ''new.''**

The terms *virgin* or *new* as descriptive of a textile fiber product, or any fiber or part thereof, shall not be used when the product, fiber or part so described is not composed wholly of new or virgin fiber which has never been reclaimed from any spun, woven, knitted, felted, bonded, or similarly manufactured product.

■ 10. Amend § 303.36 by revising the introductory text of paragraph (a) and paragraphs (a)(2) and (b), to read as follows:

**§ 303.36 Form of separate guaranty.**

(a) The following are suggested forms of separate guaranties under section 10 of the Act which may be used by a guarantor residing in the United States on or as part of an invoice or other document relating to the marketing or handling of any textile fiber products listed and designated therein, and showing the date of such invoice or other document and the signature and address of the guarantor.

* * * * *

(2) *Guaranty based on guaranty.* Based upon a guaranty received, we guaranty that the textile fiber products specified herein are not misbranded nor falsely nor deceptively advertised or invoiced under the provisions of the Textile Fiber Products Identification Act and rules and regulations thereunder.

**Note:** The printed name and address on the invoice or other document will suffice to meet the signature and address requirements.

(b) The mere disclosure of required information including the fiber content of a textile fiber product on a label or on an invoice or other document relating to its marketing or handling shall not be considered a form of separate guaranty.

■ 11. Revise § 303.37 to read as follows:

**§ 303.37 Form of continuing guaranty from seller to buyer.**

Under section 10 of the Act, a seller residing in the United States may give a buyer a continuing guaranty to be applicable to all textile fiber products sold or to be sold. The following is the prescribed form of continuing guaranty from seller to buyer:

We, the undersigned, guaranty that all textile fiber products now being sold or which may hereafter be sold or delivered to _____ are not, and will not be misbranded or falsely or deceptively advertised or invoiced under the provisions of the Textile Fiber Products Identification Act and rules and regulations thereunder. We acknowledge that furnishing a false guaranty is an unlawful unfair and deceptive act or practice pursuant to the Federal Trade Commission Act, and certify that we will actively monitor and ensure compliance with the Textile Fiber Products Identification Act and rules and regulations thereunder during the duration of this guaranty.

Dated, signed, and certified this ____ day of ____, 20__, at _____ (City), _____ (State or

Territory) _____ (name under which business is conducted.)

I certify that the information supplied in this form is true and correct.

_____

Signature of Proprietor, Principal Partner, or Corporate Official

_____

Name (Print or Type) and Title

■ 12. Amend § 303.38 by revising paragraphs (b) and (c) to read as follows:

**§ 303.38 Continuing guaranty filed with Federal Trade Commission.**

* * * * *

(b) Prescribed form for a continuing guaranty:

BILLING CODE 6750–01–P

# CONTINUING GUARANTY FOR FIBER & FUR PRODUCTS

## BUSINESS INFORMATION

1. Legal Name of Guarantor Firm

2. Name under which Guarantor Firm does business, if different from legal name

3. Type of Company: ☐ Proprietorship ☐ Partnership ☐ Corporation

4. Address of Principal Office or Place of Business *(Include Zip Code)*

*OPTIONAL INFORMATION:*

Web Address:

Telephone Number: Fax Number:

## UNDER WHICH LAW IS THE CONTINUING GUARANTY TO BE FILED?

5. Put an 'X' in the appropriate boxes.

☐ Under the **Textile Fiber Products Identification Act** (15 U.S.C. §§ 70-70k): The company named above, which manufacturers, markets, or handles textile fiber products: (1) guarantees that any textile fiber product it sells, ships, or delivers will not be misbranded or falsely or deceptively advertised or invoiced; (2) acknowledges that furnishing a false guaranty is an unlawful unfair and deceptive act or practice pursuant to the Federal Trade Commission Act; and (3) certifies that it will actively monitor and ensure compliance with the Textile Fiber Products Identification Act and the Rules and Regulations issued under the Act during the duration of the guaranty.

☐ Under the **Wool Products Labeling Act** (15 U.S.C. §§ 68-68j): The company named above, which manufacturers, markets, or handles wool products: (1) guarantees that any wool product it sells, ships, or delivers will not be misbranded; (2) acknowledges that furnishing a false guaranty is an unlawful unfair and deceptive act or practice pursuant to the Federal Trade Commission Act; and (3) certifies that it will actively monitor and ensure compliance with the Wool Products Labeling Act and the Rules and Regulations issued under the Act during the duration of the guaranty.

☐ Under the **Fur Products Labeling Act** (15 U.S.C. §§ 69-69k): The company named above, which manufacturers, markets, or handles fur products: (1) guarantees that any fur product it sells, ships, or delivers will not be misbranded or falsely or deceptively advertised or invoiced; (2) acknowledges that furnishing a false guaranty is an unlawful unfair and deceptive act or practice pursuant to the Federal Trade Commission Act; and (3) certifies that it will actively monitor and ensure compliance with the Fur Products Labeling Act and the Rules and Regulations issued under the Act during the duration of the guaranty.

## CERTIFICATION

I hereby certify that the information provided on this form is true and correct.

6. Signature of proprietor, principal partner, or corporate official

7. Name *(Please print or type)*

8. Title

9. City and State where signed

10. Date

### INSTRUCTIONS

The Textile Fiber Products Identification Act, the Wool Products Labeling Act, and the Fur Products Labeling Act provide that any marketer or manufacturer of fiber or fur products covered by those Acts may file a continuing guaranty with the Federal Trade Commission. The person signing and certifying the guaranty must reside in the United States. Use this form to file such guaranties with the Federal Trade Commission.

In completing this form, please observe the following:

(a) All appropriate blanks on the form should be filled in. Include your Zip Code in Item 4.

(b) In Item 6, signature of proprietor, partner, or corporate official of guarantor firm.

(c) Send two completed, signed original copies to:

Federal Trade Commission
Division of Enforcement
600 Pennsylvania Ave., NW
Washington, DC 20580

(d) Do not fax application - mail signed originals only.

**Length of Guaranty:**
Continuing guaranties continue in effect until revoked.

**Changes:**
The guarantor must immediately notify the Commission in writing of any change in business status. Any change in the address of the guarantor's principal office and place of business must also be promptly reported.

DO NOT USE THIS SPACE

Filed _____ 20___

FEDERAL TRADE COMMISSION

FTC Form **31-A** (rev. 09/13)

BILLING CODE 6750–01–C

(c) Any person who has a continuing guaranty on file with the Commission may, during the effective dates of the guaranty, give notice of such fact by setting forth on the invoice or other document covering the marketing or handling of the product guaranteed the following: Continuing guaranty under the Textile Fiber Products Identification Act filed with the Federal Trade Commission.

* * * * *

■ 13. Amend § 303.41 by revising paragraph (a) to read as follows:

**§ 303.41 Use of fiber trademarks and generic names in advertising.**

(a) In advertising textile fiber products, the use of a fiber trademark or a generic fiber name shall require a full disclosure of the fiber content information required by the Act and regulations in at least one instance in the advertisement.

* * * * *

■ 14. Amend § 303.42 by revising paragraph (a) to read as follows:

**§ 303.42 Arrangement of information in advertising textile fiber products.**

(a) Where a textile fiber product is advertised in such manner as to require disclosure of the information required by the Act and regulations, all parts of the required information shall be stated in immediate conjunction with each other in legible and conspicuous type or lettering of equal size and prominence. In making the required disclosure of the fiber content of the product, the generic names of fibers present in an amount 5 percent or more of the total fiber weight of the product, together with any fibers disclosed in accordance with § 303.3(a), shall appear in order of predominance by weight, to be followed by the designation ''other fiber'' or ''other fibers'' if a fiber or fibers required to be so designated are present. The advertisement need not state the percentage of each fiber.

* * * * *

■ 15. Revise § 303.44 to read as follows:

**§ 303.44 Products not intended for uses subject to the Act.**

Textile fiber products intended for uses not within the scope of the Act and regulations or intended for uses in other textile fiber products which are exempted or excluded from the Act shall not be subject to the labeling and invoicing requirements of the Act and regulations: *Provided,* an invoice or other document covering the marketing or handling of such products is given, which indicates that the products are not intended for uses subject to the Textile Fiber Products Identification Act.

■ 16. Revise § 303.45 to read as follows:

**§ 303.45 Coverage and exclusions from the Act.**

(a) The following textile fiber products are subject to the Act and regulations in this part, unless excluded from the Act's requirements in paragraph (b) of this section:

(1) Articles of wearing apparel;

(2) Handkerchiefs;

(3) Scarfs;

(4) Beddings;

(5) Curtains and casements;

(6) Draperies;

(7) Tablecloths, napkins, and doilies;

(8) Floor coverings;

(9) Towels;

(10) Wash cloths and dish cloths;

(11) Ironing board covers and pads;

(12) Umbrellas and parasols;

(13) Batts;

(14) Products subject to section 4(h) of the Act;

(15) Flags with heading or more than 216 square inches (13.9 $dm^2$) in size;

(16) Cushions;

(17) All fibers, yarns and fabrics (including narrow fabrics except packaging ribbons);

(18) Furniture slip covers and other covers or coverlets for furniture;

(19) Afghans and throws;

(20) Sleeping bags;

(21) Antimacassars and tidies;

(22) Hammocks; and

(23) Dresser and other furniture scarfs.

(b) Pursuant to section 12(b) of the Act, all textile fiber products other than those identified in paragraph (a) of this section, and the following textile fiber products, are excluded from the Act's requirements:

(1) Belts, suspenders, arm bands, permanently knotted neckties, garters, sanitary belts, diaper liners, labels (either required or non-required) individually and in rolls, looper clips intended for handicraft purposes, book cloth, artists' canvases, tapestry cloth, and shoe laces.

(2) All textile fiber products manufactured by the operators of company stores and offered for sale and sold exclusively to their own employees as ultimate consumers.

(3) Coated fabrics and those portions of textile fiber products made of coated fabrics.

(4) Secondhand household textile articles which are discernibly secondhand or which are marked to indicate their secondhand character.

(5) Non-woven products of a disposable nature intended for one-time use only.

(6) All curtains, casements, draperies, and table place mats, or any portions thereof otherwise subject to the Act, made principally of slats, rods, or strips, composed of wood, metal, plastic, or leather.

(7) All textile fiber products in a form ready for the ultimate consumer procured by the military services of the United States which are bought according to specifications, but shall not include those textile fiber products sold and distributed through post exchanges, sales commissaries, or ship stores; provided, however, that if the military services sell textile fiber products for nongovernmental purposes the information with respect to the fiber content of such products shall be furnished to the purchaser thereof who shall label such products in conformity with the Act and regulations before such products are distributed for civilian use.

(8) All hand woven rugs made by Navajo Indians which have attached thereto the ''Certificate of Genuineness'' supplied by the Indian Arts and Crafts Board of the United States Department of Interior. The term Navajo Indian means any Indian who is listed on the register of the Navajo Indian Tribe or is eligible for listing thereon.

(c) The exclusions provided for in paragraph (b) of this section shall not be applicable:

(1) if any representations as to the fiber content of such products are made on any label or in any advertisement without making a full and complete fiber content disclosure on such label or in such advertisement in accordance with the Act and regulations in this part with the exception of those products excluded by paragraph (b)(5) of this section; or

(2) If any false, deceptive, or misleading representations are made as to the fiber content of such products.

(d) The exclusions from the Act provided in paragraph (b) of this section are in addition to the exemptions from the Act provided in section 12(a) of the Act and shall not affect or limit such exemptions.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 2014–07518 Filed 4–3–14; 8:45 am]

**BILLING CODE 6750–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 35

**[Docket Nos. RM01–8–000, RM10–12–000, RM12–3–000]**

## Order Updating Electric Quarterly Report Data Dictionary

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Order Updating Electric Quarterly Report (EQR) Data Dictionary; Correction.

**SUMMARY:** This notice contains corrections to the order (RM01–8–000, et al) which was published in the **Federal Register** of Friday, March 14, 2014 (79 FR 14369). This order updated the EQR Data Dictionary to indicate how market participants should enter information in certain fields of the new EQR system so that the new system's validation process will more readily accept filings. These updates to the EQR Data Dictionary enable the implementation of the Commission's revised EQR filing process. This order also updated the EQR Data Dictionary's list of Balancing Authority names and abbreviations to reflect changes in the official source of such data.

**DATES:** Effective April 4, 2014.

**FOR FURTHER INFORMATION CONTACT:**

Astrid Kirstin Rapp (Technical Information), Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6246.

Adam Batenhorst (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6150.

**SUPPLEMENTARY INFORMATION:**

| | Docket Nos. |
|---|---|
| Filing requirements for El. Utility, S.A. | RM01–8–000 |
| Electric Market Transparency Provisions of Section 220 of the Federal Power Act | RM10–12–000 |
| Revisions to Electric Quarterly Report Filing Process | RM12–3–000 |

### Errata Notice

On March 10, 2014, the Commission issued an Order Updating Electric Quarterly Report Data Dictionary in the above referenced dockets. *Filing Requirements for El. Utility, S.A.,* 146 FERC ¶ 61,169 (2014). This errata notice serves to correct the issuance date referenced in the order's attachment and to make other corrections to the attachment. The order is revised as follows:

1. The third line of the Attachment should read ''*Version 3.0 (Issued March 10, 2014)''.*

2. The Value Column of Field Number 57 should read ''See Balancing Authority Table Appendix B.''

3. The Value Column of Field Numbers 65 and 68 should read ''Number with up to 6 decimals.''

4. The Value Column of Field Numbers 69 and 70 should read ''Number with up to 2 decimals.''

5. The Value Column of Field Number 71 should read ''FS# (where ''#'' is an integer)''.

6. Line 45 of the table in Appendix B should contain a check mark in the Outside US* Column.

7. Line 47 of the table in Appendix B should not contain a check mark in the Outside US* Column.

8. Appendix C should be titled ''Appendix C. Hub''.

9. Line 13 of the table in Appendix D should read ''NA'' in the Time Zone Column.

10. Line 18 of the table in Appendix E should read ''FLAT RATE'' in the Units Column and ''*Flat Rate*'' in the Definition Column.

11. Line 8 of Appendix G should be removed.

12. Line 4 of Appendix H should read ''NYMEX'' in the Exchange/Brokerage Service Column and ''*New York Mercantile Exchange*'' in the Definition Column.

A revised Attachment is attached for the convenience of the reader.

In FR Doc. 2014–05583 appearing on page 14369 in the **Federal Register** of Friday, March 14, 2014, the following corrections are made:

1. On page 14371, third column, the third line of the Attachment should read ''*Version 3.0 (Issued March 10, 2014)*''.

2. On page 14382, the Value Column of Field Number 57 should read ''See Balancing Authority Table Appendix B.''

3. On page 14383, the Value Column of Field Numbers 65 and 68 should read ''Number with up to 6 decimals.''

4. On pages 14383 and 14384, the Value Column of Field Numbers 69 and 70 should read ''Number with up to 2 decimals.''

5. On page 14385, the Value Column of Field Number 71 should read ''FS# (where ''#'' is an integer)''.

6. On page 14391, Line 45 of the table in Appendix B should contain a check mark in the Outside US* Column.

7. On page 14391, Line 47 of the table in Appendix B should not contain a check mark in the Outside US* Column.

8. On pages 14395 and 14396, Appendix C should be titled ''Appendix C. Hub''.

9. On page 14397, Line 13 of the table in Appendix D should read ''NA'' in the Time Zone Column.

10. On page 14397, Line 18 of the table in Appendix E should read ''FLAT RATE'' in the Units Column and ''*Flat Rate*'' in the Definition Column.

11. On page 14398, Line 8 of Appendix G should be removed.

12. On page 14398, Line 4 of Appendix H should read ''NYMEX'' in the Exchange/Brokerage Service Column and ''*New York Mercantile Exchange*'' in the Definition Column.

Dated: March 24, 2014.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

**Note:** Attachment will not be published in the Code of Federal Regulations.

Attachment—Electric Quarterly Report Data Dictionary, Version 3.0 (Issued March 10, 2014)

**BILLING CODE 6717–01–P**

## EQR Data Dictionary
## ID Data

| Field # | Field | Required | Value | Definition |
|---|---|---|---|---|
| 1 | Filer Unique Identifier | ✓ | FS# (where "#" is an integer) | (Seller) – An identifier (e.g., "FS1", "FS2") used to designate a record containing Seller identification information. One record for each seller company must be included in an EQR for a given quarter. |
| 1 | Filer Unique Identifier | ✓ | FA1 | (Agent) – An identifier (i.e., "FA1") used to designate a record containing Agent identification information. One record with the FA1 identifier must be included in an EQR for a given quarter. |
| 2 | Company Name | ✓ | Unrestricted text (100 characters) | (Seller) – The name of the company that is authorized to make sales as indicated in the company's FERC tariff(s) or that is required to file the EQR under section 220 of the Federal Power Act. |
| 2 | Company Name | ✓ | Unrestricted text (100 characters) | (Agent) – The name of the entity completing the EQR filing. The Agent's Company Name need not be the name of the company under Commission jurisdiction. |
| 3 | Company Identifier | ✓ | A 6-digit integer preceded by the letter "C" (or in case of Agent, it may be a 6-digit integer preceded by the letter "D") | (Seller) – The Company Identifier (CID) obtained through the Commission's Company Registration system.<br>(Agent) – The CID or Delegate Identifier (DID) obtained through the Commission's Company Registration system. |
| 4 | Contact Name | ✓ | "FirstName LastName" or "FirstName MiddleInitial LastName" or "FirstName MiddleName LastName" (50 characters) | (Seller) – The name of the contact for the company authorized to make sales as indicated in the company's FERC tariff(s) or that is required to file the EQR under section 220 of the Federal Power Act. |
| 4 | Contact Name | ✓ | "FirstName LastName" or "FirstName MiddleInitial LastName" or "FirstName MiddleName LastName" (50 characters) | (Agent) – Name of the person who prepared the filing |
| 5 | Contact Title | ✓ | Unrestricted text (50 characters) | Title of contact identified in Field Number 4. |
| 6 | Contact Address | ✓ | Unrestricted text | Street address for contact identified in Field Number 4. |

## EQR Data Dictionary
## ID Data

| Field # | Field | Required | Value | Definition |
|---|---|---|---|---|
| 7 | Contact City | ✓ | Unrestricted text (30 characters) | City for the contact identified in Field Number 4. |
| 8 | Contact State | ✓ | Unrestricted text (2 characters) | Two character state or province abbreviation for the contact identified in Field Number 4. |
| 9 | Contact Zip | ✓ | Unrestricted text (10 characters) | Zip code for the contact identified in Field Number 4. |
| 10 | Contact Country Name | ✓ | CA - Canada<br>MX - Mexico<br>US – United States<br>UK – United Kingdom<br>(2 characters) | Country (USA, Canada, Mexico, or United Kingdom) for contact address identified in Field Number 4. |
| 11 | Contact Phone | ✓ | Unrestricted text (20 characters) | Phone number of contact identified in Field Number 4. |
| 12 | Contact E-Mail | ✓ | Unrestricted text (200 characters) | E-mail address of contact identified in Field Number 4. |
| 13 | Transactions Reported to Index Price Publisher(s) | ✓ | Y – Yes<br>N – No<br>(1 character) | Sellers should indicate whether they have reported their sales transactions to index price publisher(s). If they have, Sellers should indicate specifically which index publisher(s) in Field Number 73. |
| 14 | Filing Quarter | ✓ | YYYYMM | A six digit reference number used by the EQR system to indicate the quarter and year of the filing. The first 4 numbers represent the year (e.g., 2007). The last 2 numbers represent the last month of the quarter (e.g., 03=1st quarter; 06=2nd quarter, 09=3rd quarter, 12= 4th quarter). |

## EQR Data Dictionary
## Contract Data

| Field # | Field | Required | Value | Definition |
|---|---|---|---|---|
| 15 | Contract Unique ID | ✓ | An integer preceded by the letter "C" (only used when importing contract data) | An identifier beginning with the letter "C" and followed by a number (e.g., "C1", "C2") used to designate a record containing contract information. |
| 16 | Seller Company Name | ✓ | Unrestricted text (100 characters) | The name of the company that is authorized to make sales as indicated in the company's FERC tariff(s) or that is required to file the EQR under section 220 of the Federal Power Act. This name must match the name provided as a Seller's "Company Name" in Field Number 2 of the ID Data (Seller Data). |
| 17 | Customer Company Name | ✓ | Unrestricted text (70 characters) | The name of the purchaser of contract products and services. |
| 18 | Contract Affiliate | ✓ | Y (Yes)<br>N (No)<br>(1 character) | The customer is an affiliate if it controls, is controlled by, or is under common control with the seller. This includes a division that operates as a functional unit. A customer of a seller who is an Exempt Wholesale Generator may be defined as an affiliate under the Public Utility Holding Company Act and the FPA. |
| 19 | FERC Tariff Reference | ✓ | Unrestricted text (60 characters) | The FERC tariff reference cites the document that specifies the terms and conditions under which a Seller is authorized to make transmission sales, power sales or sales of related jurisdictional services at cost-based rates or at market-based rates. If the sales are market-based, the tariff that is specified in the FERC order granting the Seller Market Based Rate Authority must be listed. If a non-public utility does not have a FERC Tariff Reference, it should enter "NPU" for the FERC Tariff Reference. |
| 20 | Contract Service Agreement ID | ✓ | Unrestricted text (30 characters) | Unique identifier given to each service agreement that can be used by the Seller to produce the agreement, if requested. The identifier may be the number assigned by FERC for those service agreements that have been filed with and accepted by the Commission, or it may be generated as part of an internal identification system. |
| 21 | Contract Execution Date | ✓ | YYYYMMDD | The date the contract was signed. If the parties signed on different dates, use the most recent date signed. |
| 22 | Commencement Date of Contract Terms | ✓ | YYYYMMDD | The date the terms of the contract reported in fields 18, 23 and 25 through 44 (as defined in the data dictionary) became effective. If those terms became effective on multiple dates (i.e., due to one or more amendments), the date to be reported in this field is the date the most recent amendment became effective. If the contract or the most recent reported amendment does not have an effective date, the date when service began pursuant to the contract or most recent reported amendment may be used. If the terms reported in fields 18, 23 and 25 through 44 have not been amended since January 1, 2009, the initial date the contract became effective (or absent an effective date the initial date when service began) may be used. |

## EQR Data Dictionary
## Contract Data

| Field # | Field | Required | Value | Definition |
|---|---|---|---|---|
| 23 | Contract Termination Date | If specified in the contract. If not specified in the contract, field should remain blank. | YYYYMMDD | The date that the contract expires. |
| 24 | Actual Termination Date | If contract terminated. If contract has not terminated, field should remain blank. | YYYYMMDD | The date the contract actually terminates. |
| 25 | Extension Provision Description | ✓ If not specified in contract, enter None or N/A. | Unrestricted text | Description of terms that provide for the continuation of the contract. |
| 26 | Class Name | ✓ | --- | See definitions of each class name below. |
| 26 | Class Name | ✓ | F - Firm | For transmission sales, a service or product that always has priority over non-firm service. For power sales, a service or product that is not interruptible for economic reasons. |
| 26 | Class Name | ✓ | NF - Non-firm | For transmission sales, a service that is reserved and/or scheduled on an as-available basis and is subject to curtailment or interruption at a lesser priority compared to Firm service. For an energy sale, a service or product for which delivery or receipt of the energy may be interrupted for any reason or no reason, without liability on the part of either the buyer or seller. |
| 26 | Class Name | ✓ | UP - Unit Power Sale | Designates a dedicated sale of energy and capacity from one or more than one specified generation unit(s). |
| 26 | Class Name | ✓ | N/A - Not Applicable | To be used only when the other available Class Names do not apply. |

## EQR Data Dictionary
## Contract Data

| Field # | Field | Required | Value | Definition |
|---|---|---|---|---|
| 27 | Term Name | ✓ | LT - Long Term<br>ST - Short Term<br>N/A - Not Applicable | Contracts with durations of one year or greater are long-term. Contracts with shorter durations are short-term. |
| 28 | Increment Name | ✓ | --- | See definitions for each increment below. |
| 28 | Increment Name | ✓ | H - Hourly | Terms of the contract (if specifically noted in the contract) set for up to 6 consecutive hours (≤ 6 consecutive hours). |
| 28 | Increment Name | ✓ | D - Daily | Terms of the contract (if specifically noted in the contract) set for more than 6 and up to 60 consecutive hours (>6 and ≤ 60 consecutive hours). |
| 28 | Increment Name | ✓ | W - Weekly | Terms of the contract (if specifically noted in the contract) set for over 60 consecutive hours and up to 168 consecutive hours (>60 and ≤ 168 consecutive hours). |
| 28 | Increment Name | ✓ | M - Monthly | Terms of the contract (if specifically noted in the contract) set for more than 168 consecutive hours up to, but not including, one year (>168 consecutive hours and < 1 year). |
| 28 | Increment Name | ✓ | Y - Yearly | Terms of the contract (if specifically noted in the contract) set for one year or more (≥ 1 year). |
| 28 | Increment Name | ✓ | N/A - Not Applicable | Terms of the contract do not specify an increment. |
| 29 | Increment Peaking Name | ✓ | --- | See definitions for each increment peaking name below. |
| 29 | Increment Peaking Name | ✓ | FP - Full Period | The product described may be sold during those hours designated as on-peak and off-peak at the point of delivery. |
| 29 | Increment Peaking Name | ✓ | OP - Off-Peak | The product described may be sold only during those hours designated as off-peak at the point of delivery. |
| 29 | Increment Peaking Name | ✓ | P - Peak | The product described may be sold only during those hours designated as on-peak at the point of delivery. |
| 29 | Increment Peaking Name | ✓ | N/A - Not Applicable | To be used only when the increment peaking name is not specified in the contract. |
| 30 | Product Type Name | ✓ | --- | See definitions for each product type below. |
| 30 | Product Type Name | ✓ | CB - Cost Based | Energy or capacity sold under a FERC-approved cost-based rate tariff. |
| 30 | Product Type Name | ✓ | CR - Capacity Reassignment | An agreement under which a transmission provider sells, assigns or transfers all or portion of its rights to an eligible customer. |
| 30 | Product Type Name | ✓ | MB - Market Based | Energy or capacity sold under the seller's FERC-approved market-based rate tariff. |

## EQR Data Dictionary
## Contract Data

| Field # | Field | Required | Value | Definition |
|---|---|---|---|---|
| 30 | Product Type Name | ✓ | T - Transmission | The product is sold under a FERC-approved transmission tariff. |
| 30 | Product Type Name | ✓ | NPU – Non-Public Utility | The product is sold by a non-public utility that is required to file the EQR under section 220 of the Federal Power Act. |
| 30 | Product Type Name | ✓ | Other | The product cannot be characterized by the other product type names. |
| 31 | Product Name | ✓ | See Product Name Table, Appendix A. | Description of product being offered. |
| 32 | Quantity | If specified in the contract. If not specified in the contract, field should remain blank. | Number with up to 4 decimals | Quantity for the contract product identified. |
| 33 | Units | If specified in the contract. If not specified in the contract, field should remain blank. | See Units Table, Appendix E. | Measure stated in the contract for the product sold. |
| 34 | Rate | One of four rate fields (34, 35, 36, or 37) must be included. If not specified in the contract, field should remain blank. | Number with up to 4 decimals | The charge for the product per unit as stated in the contract. |
| 35 | Rate Minimum | One of four rate fields (34, 35, 36, or 37) must be included. If not specified in the contract, field should remain blank. | Number with up to 4 decimals | Minimum rate to be charged per the contract, if a range is specified. |

## EQR Data Dictionary
## Contract Data

| Field # | Field | Required | Value | Definition |
|---|---|---|---|---|
| 36 | Rate Maximum | One of four rate fields (34, 35, 36, or 37) must be included. If not specified in the contract, field should remain blank. | Number with up to 4 decimals | Maximum rate to be charged per the contract, if a range is specified. |
| 37 | Rate Description | One of four rate fields (34, 35, 36, or 37) must be included | Unrestricted text (up to 300 characters) | Text description of rate. If the rate is currently available on the FERC website, a citation of the FERC Accession Number and the relevant FERC tariff including page number or section may be included instead of providing the entire rate algorithm. If the rate is not available on the FERC website, include the rate algorithm, if rate is calculated. If the algorithm would exceed the 300 character field limit, it may be provided in a descriptive summary (including bases and methods of calculations) with a detailed citation of the relevant FERC tariff including page number and section. |
| 38 | Rate Units | If specified in the contract | See Rate Units Table, Appendix F. | Measure stated in the contract for the product sold. |
| 39 | Point of Receipt Balancing Authority(PORBA) | If specified in the contract. If not specified in the contract, this field should remain blank. | See Balancing Authority Table Appendix B. | The registered Balancing Authority (formerly called NERC Control Area) where service begins for a transmission or transmission-related jurisdictional sale. The Balancing Authority will be identified with the abbreviation used in OASIS applications. If receipt occurs at a trading hub, the term "Hub" should be used. |
| 40 | Point of Receipt Specific Location (PORSL) | If specified in the contract. If not specified in the contract, this field should remain blank. | Unrestricted text (50 characters).<br><br>If "HUB" is selected for PORBA, see Hub Table, Appendix C. | The specific location at which the product is received if designated in the contract. If receipt occurs at a trading hub, a standardized hub name must be used. If more points of receipt are listed in the contract than can fit into the 50 character space, a description of the collection of points may be used. 'Various,' alone, is unacceptable unless the contract itself uses that terminology. |
| 41 | Point of Delivery Balancing Authority(PODBA) | If specified in the contract. If not specified in the contract, field should remain blank. | See Balancing Authority Table Appendix B. | The registered Balancing Authority (formerly called NERC Control Area) where a jurisdictional product is delivered and/or service ends for a transmission or transmission-related jurisdictional sale. The Balancing Authority will be identified with the abbreviation used in OASIS applications. If delivery occurs at the interconnection of two control areas, the control area that the product is entering should be used. If delivery occurs at a trading hub, the term "Hub" should be used. |

**EQR Data Dictionary**
**Contract Data**

| Field # | Field | Required | Value | Definition |
|---|---|---|---|---|
| 42 | Point of Delivery Specific Location (PODSL) | If specified in the contract. If not specified in the contract, field should remain blank. | Unrestricted text (50 characters).<br><br>If "HUB" is selected for PODBA, see Hub Table, Appendix C. | The specific location at which the product is delivered if designated in the contract. If receipt occurs at a trading hub, a standardized hub name must be used. |
| 43 | Begin Date | If specified in the contract. If not specified in the contract, field should remain blank. | YYYYMMDDHHMM | First date and time for the sale of the product at the rate specified. |
| 44 | End Date | If specified in the contract. If not specified in the contract, field should remain blank. | YYYYMMDDHHMM | Last date and time for the sale of the product at the rate specified. |

## EQR Data Dictionary
## Transaction Data

| Field # | Field | Required | Value | Definition |
|---|---|---|---|---|
| 45 | Transaction Unique ID | ✓ | An integer preceded by the letter "T" (only used when importing transaction data) | An identifier beginning with the letter "T" and followed by a number (e.g., "T1", "T2") used to designate a record containing transaction information. One record for each transaction record must be included in an EQR for a given quarter. A new transaction record must be used every time a price changes in a sale. |
| 46 | Seller Company Name | ✓ | Unrestricted text (100 Characters) | The name of the company that is authorized to make sales as indicated in the company's FERC tariff(s) or that is required to file the EQR under section 220 of the Federal Power Act. This name must match the name provided as a Seller's "Company Name" in Field 2 of the ID Data (Seller Data). |
| 47 | Customer Company Name | ✓ | Unrestricted text (70 Characters) | The name of the purchaser of contract products and services. |
| 48 | FERC Tariff Reference | ✓ | Unrestricted text (60 Characters) | The FERC tariff reference cites the document that specifies the terms and conditions under which a Seller is authorized to make transmission sales, power sales or sales of related jurisdictional services at cost-based rates or at market-based rates. If the sales are market-based, the tariff that is specified in the FERC order granting the Seller Market Based Rate Authority must be listed. If a non-public utility does not have a FERC Tariff Reference, it should enter "NPU" for the FERC Tariff Reference. |
| 49 | Contract Service Agreement ID | ✓ | Unrestricted text (30 Characters) | Unique identifier given to each service agreement that can be used by the Seller to produce the agreement, if requested. The identifier may be the number assigned by FERC for those service agreements that have been filed and approved by the Commission, or it may be generated as part of an internal identification system. |
| 50 | Transaction Unique Identifier | ✓ | Unrestricted text (24 Characters) | Unique reference number assigned by the Seller for each transaction. |
| 51 | Transaction Begin Date | ✓ | YYYYMMDDHHMM | First date and time the product is sold during the quarter. |
| 52 | Transaction End Date | ✓ | YYYYMMDDHHMM | Last date and time the product is sold during the quarter. |
| 53 | Trade Date | ✓ | YYYYMMDD | The date upon which the parties made the legally binding agreement on the price of a transaction. |
| 54 | Exchange/Brokerage Service | | See Exchange/Brokerage Service Table, Appendix H. | If a broker service is used to consummate or effectuate a transaction, the term "Broker" shall be provided. If an exchange is used, the specific exchange that is used shall be selected from the Commission-provided list. |
| 55 | Type of Rate | ✓ | --- | See type of rate definitions below. |
| 55 | Type of Rate | ✓ | Fixed | A fixed charge per unit of consumption. No variables are used to determine this rate. |
| 55 | Type of Rate | ✓ | Formula | A calculation of a rate based upon a formula that does not contain an electric index component. |

## EQR Data Dictionary
## Transaction Data

| Field # | Field | Required | Value | Definition |
|---|---|---|---|---|
| 55 | Type of Rate | ✓ | Electric Index | A calculation of a rate based upon an index or a formula that contains an electric index component. An electric index includes an index published by an index publisher such as those required to be listed in Field Number 73 or a price published by an RTO/ISO (e.g., PJM West or Illinois Hub). |
| 55 | Type of Rate | ✓ | RTO/ISO | If the price is the result of an RTO/ISO market or the sale is made to the RTO/ISO. |
| 56 | Time Zone | ✓ | See Time Zone Table, Appendix D. | The time zone in which the sale was made . |
| 57 | Point of Delivery Balancing Authority (PODBA) | ✓ | See Balancing Authority Table Appendix B. | The registered Balancing Authority (formerly called NERC Control Area) abbreviation used in OASIS applications. |
| 58 | Point of Delivery Specific Location (PODSL) | ✓ | Unrestricted text (50 characters). If "HUB" is selected for PODBA, see Hub Table, Appendix C. | The specific location at which the product is delivered. If receipt occurs at a trading hub, a standardized hub name must be used. |
| 59 | Class Name | ✓ | --- | See class name definitions below. |
| 59 | Class Name | ✓ | F - Firm | A sale, service or product that is not interruptible for economic reasons. |
| 59 | Class Name | ✓ | NF - Non-firm | A sale for which delivery or receipt of the energy may be interrupted for any reason or no reason, without liability on the part of either the buyer or seller. |
| 59 | Class Name | ✓ | UP - Unit Power Sale | Designates a dedicated sale of energy and capacity from one or more than one specified generation unit(s). |
| 59 | Class Name | ✓ | BA - Billing Adjustment | Designates an incremental material change to one or more transactions due to a change in settlement results. "BA" may be used in a refiling after the next quarter's filing is due to reflect the receipt of new information. It may not be used to correct an inaccurate filing. |
| 59 | Class Name | ✓ | N/A - Not Applicable | To be used only when the other available class names do not apply. |
| 60 | Term Name | ✓ | LT - Long Term<br>ST - Short Term<br>N/A - Not Applicable | Power sales transactions with durations of one year or greater are long-term. Transactions with shorter durations are short-term. |
| 61 | Increment Name | ✓ | --- | See increment name definitions below. |
| 61 | Increment Name | ✓ | H - Hourly | Terms of the particular sale set for up to 6 consecutive hours (≤ 6 consecutive hours) Includes LMP based sales in ISO/RTO markets. |
| 61 | Increment Name | ✓ | D - Daily | Terms of the particular sale set for more than 6 and up to 60 consecutive hours (>6 and ≤ 60 consecutive hours). Includes sales over a peak or off-peak block during a single day. |
| 61 | Increment Name | ✓ | W - Weekly | Terms of the particular sale set for over 60 consecutive hours and up to 168 consecutive hours (>60 and ≤ 168 consecutive hours). Includes sales for a full week and sales for peak and off-peak blocks over a particular week. |

## EQR Data Dictionary
## Transaction Data

| Field # | Field | Required | Value | Definition |
|---|---|---|---|---|
| 61 | Increment Name | ✓ | M - Monthly | Terms of the particular sale set for set for more than 168 consecutive hours up to, but not including, one year (>168 consecutive hours and < 1 year). Includes sales for full month or multi-week sales during a given month. |
| 61 | Increment Name | ✓ | Y - Yearly | Terms of the particular sale set for one year or more (≥ 1 year). Includes all long-term contracts with defined pricing terms (fixed-price, formula, or index). |
| 61 | Increment Name | ✓ | N/A - Not Applicable | To be used only when other available increment names do not apply. |
| 62 | Increment Peaking Name | ✓ | --- | See definitions for increment peaking below. |
| 62 | Increment Peaking Name | ✓ | FP - Full Period | The product described was sold during Peak and Off-Peak hours. |
| 62 | Increment Peaking Name | ✓ | OP - Off-Peak | The product described was sold only during those hours designated as off-peak at the point of delivery. |
| 62 | Increment Peaking Name | ✓ | P - Peak | The product described was sold only during those hours designated as on-peak at the point of delivery. |
| 62 | Increment Peaking Name | ✓ | N/A - Not Applicable | To be used only when the other available increment peaking names do not apply. |
| 63 | Product Name | ✓ | See Product Names Table, Appendix A. | Description of product being offered. |
| 64 | Transaction Quantity | ✓ | Number with up to 4 decimals. | The quantity of the product in this transaction record. |
| 65 | Price | ✓ | Number with up to 6 decimals. | Actual price charged for the product per unit. The price reported cannot be averaged or otherwise aggregated |
| 66 | Rate Units | ✓ | See Rate Units Table, Appendix F | Measure appropriate to the price of the product sold. |
| 67 | Standardized Quantity | ✓ | Number with up to 4 decimals. | For product names energy, capacity, and booked out power only. Specify the quantity in MWh if the product is energy or booked out power and specify the quantity in MW-month if the product is capacity or booked out power |
| 68 | Standardized Price | ✓ | Number with up to 6 decimals. | For product names energy, capacity, and booked out power only. Specify the price in $/MWh if the product is energy or booked out power and specify the price in $/MW-month if the product is capacity or booked out power. |
| 69 | Total Transmission Charge | ✓ If no transmission charge to report, enter zero. | Number with up to 2 decimals. | Payments received for transmission services when explicitly identified. |
| 70 | Total Transaction Charge | ✓ | Number with up to 2 decimals | Transaction Quantity (Field 64) times Price (Field 65) plus Total Transmission Charge (Field 69). |

**EQR Data Dictionary**
**Transaction Data**

| Field # | Field | Required | Value | Definition |
|---|---|---|---|---|
| | | charge to report, enter zero. | | |
| 70 | Total Transaction Charge | ✓ | Number with up to 2 decimals | Transaction Quantity (Field 64) times Price (Field 65) plus Total Transmission Charge (Field 69). |

## EQR Data Dictionary
## Index Reporting Data

| Field # | Field | Required | Value | Definition |
|---|---|---|---|---|
| 71 | Filer Unique Identifier | ✓ If Field 13 is Y | FS# (where "#" is an integer) | The "FS" seller number from the ID Data table corresponding to the index reporting company. |
| 72 | Seller Company Name | ✓ If Field 13 is Y | Unrestricted text (100 characters) | The name of the company that is authorized to make sales as indicated in the company's FERC tariff(s) or that is required to file the EQR under section 220 of the Federal Power Act. This name must match the name provided as a Seller's "Company Name" in Field Number 2 of the ID Data (Seller Data). |
| 73 | Index Price Publisher(s) To Which Sales Transactions Have Been Reported | ✓ If Field 13 is Y | See Index Price Publisher Table, Appendix G. | The index price publisher(s) to which sales transactions have been reported. |
| 74 | Transactions Reported | ✓ If Field 13 is Y | Unrestricted text (100 characters) | Description of the types of transactions reported to the index publisher identified in this record. |

## EQR Data Dictionary

| Field # | Field | Required | Value | Definition |
|---|---|---|---|---|
| 75 | e-Tag ID | If an e-Tag ID was used to schedule the EQR transaction | Unrestricted text (30 Characters) | The e-Tag ID contains: The Source Balancing Authority where the generation is located; The Purchasing-Selling Balancing Authority Entity Code; the e-Tag Code; and the Sink Balancing Authority. |
| 76 | e-Tag Begin Date | If an e-Tag ID was used to schedule the EQR transaction | YYYYMMDD (csv import) MMDDYYYY (manual entry) | The first date the transaction is scheduled using the e-Tag ID reported in Field Number 75. Begin Date must not be before the Transaction Begin Date specified in Field Number 51 and must be reported in the same time zone specified in Field Number 56. |
| 77 | e-Tag End Date | If an e-Tag ID was used to schedule the EQR transaction | YYYYMMDD (csv import) MMDDYYYY (manual entry) | The last date the transaction is scheduled using the e-Tag ID reported in Field Number 75. End Date must not be after the Transaction End Date specified in Field Number 52 and must be reported in the same time zone specified in Field Number 56. |
| 78 | Transaction Unique Identifier | If an e-Tag ID was used to schedule the EQR transaction | Unrestricted text (24 Characters) | Unique reference number assigned by the seller for each transaction that must be the same as reported in Field Number 50. |

**Compliance with e-Tag Data requirement has been delayed. *See Electricity Market Transparency Provisions of Section 220 of the Federal Power Act*, 142 FERC ¶ 61,105 (2013).

# EQR Data Dictionary

## Appendix A. Product Names

| Product Name | Contract Product | Transaction Product | Definition |
|---|---|---|---|
| BLACK START SERVICE | ✓ | ✓ | Service available after a system -wide blackout where a generator participates in system restoration activities without the availability of an outside electric supply (Ancillary Service). |
| BOOKED OUT POWER | | ✓ | Energy or capacity contractually committed bilaterally for delivery but not actually delivered due to some offsetting or countervailing trade (Transaction only). |
| CAPACITY | ✓ | ✓ | A quantity of demand that is charged on a $/KW or $/MW basis. |
| CUSTOMER CHARGE | ✓ | ✓ | Fixed contractual charges assessed on a per customer basis that could include billing service. |
| DIRECT ASSIGNMENT FACILITIES CHARGE | ✓ | | Charges for facilities or portions of facilities that are constructed or used for the sole use/benefit of a particular customer. |
| EMERGENCY ENERGY | ✓ | | Contractual provisions to supply energy or capacity to another entity during critical situations. |
| ENERGY | ✓ | ✓ | A quantity of electricity that is sold or transmitted over a period of time. |
| ENERGY IMBALANCE | ✓ | ✓ | Service provided when a difference occurs between the scheduled and the actual delivery of energy to a load obligation (Ancillary Service). For Contracts, reported if the contract provides for sale of the product. For Transactions, sales by third-party providers (i.e., non-transmission function) are reported. |
| EXCHANGE | ✓ | ✓ | Transaction whereby the receiver accepts delivery of energy for a supplier's account and returns energy at times, rates, and in amounts as mutually agreed if the receiver is not an RTO/ISO. |
| FUEL CHARGE | ✓ | ✓ | Charge based on the cost or amount of fuel used for generation. |
| GENERATOR IMBALANCE | ✓ | ✓ | Service provided when a difference occurs between the output of a generator located in the Transmission Provider's Control Area and a delivery schedule from that generator to (1) another Control Area or (2) a load within the Transmission Provider's Control Area over a single hour (Ancillary Service). For Contracts, reported if the contract provides for sale of the product. For Transactions, sales by third-party providers (i.e., non-transmission function) are reported. |

# EQR Data Dictionary

## Appendix A. Product Names

| Product Name | Contract Product | Transaction Product | Definition |
|---|---|---|---|
| GRANDFATHERED BUNDLED | ✓ | ✓ | Services provided for bundled transmission, ancillary services and energy under contracts effective prior to Order No. 888's OATTs. |
| INTERCONNECTION AGREEMENT | ✓ | | Contract that provides the terms and conditions for a generator, distribution system owner, transmission owner, transmission provider, or transmission system to physically connect to a transmission system or distribution system. |
| MEMBERSHIP AGREEMENT | ✓ | | Agreement to participate and be subject to rules of a system operator. |
| MUST RUN AGREEMENT | ✓ | | An agreement that requires a unit to run. |
| NEGOTIATED-RATE TRANSMISSION | ✓ | ✓ | Transmission performed under a negotiated rate contract (applies only to merchant transmission companies). |
| NETWORK | ✓ | | Transmission service under contract providing network service. |
| NETWORK OPERATING AGREEMENT | ✓ | | An executed agreement that contains the terms and conditions under which a network customer operates its facilities and the technical and operational matters associated with the implementation of network integration transmission service. |
| OTHER | ✓ | ✓ | Product name not otherwise included. |
| POINT-TO-POINT AGREEMENT | ✓ | | Transmission service under contract between specified Points of Receipt and Delivery. |
| REACTIVE SUPPLY & VOLTAGE CONTROL | ✓ | ✓ | Production or absorption of reactive power to maintain voltage levels on transmission systems (Ancillary Service). |
| REAL POWER TRANSMISSION LOSS | ✓ | ✓ | The loss of energy, resulting from transporting power over a transmission system. |
| REASSIGNMENT AGREEMENT | ✓ | | Transmission capacity reassignment agreement. |
| REGULATION & FREQUENCY RESPONSE | ✓ | ✓ | Service providing for continuous balancing of resources (generation and interchange) with load, and for maintaining scheduled interconnection frequency by committing on-line generation where output is raised or lowered and by other non-generation resources capable of providing this service as necessary to follow the moment-by-moment changes in load (Ancillary Service). For Contracts, reported if the contract provides for sale of the product. For Transactions, sales by third-party providers (i.e., non-transmission function) are reported. |

## EQR Data Dictionary

### Appendix A. Product Names

| Product Name | Contract Product | Transaction Product | Definition |
|---|---|---|---|
| REQUIREMENTS SERVICE | ✓ | ✓ | Firm, load-following power supply necessary to serve a specified share of customer's aggregate load during the term of the agreement. Requirements service may include some or all of the energy, capacity and ancillary service products. (If the components of the requirements service are priced separately, they should be reported separately in the transactions tab.) |
| SCHEDULE SYSTEM CONTROL & DISPATCH | ✓ | ✓ | Scheduling, confirming and implementing an interchange schedule with other Balancing Authorities, including intermediary Balancing Authorities providing transmission service, and ensuring operational security during the interchange transaction (Ancillary Service). |
| SPINNING RESERVE | ✓ | ✓ | Unloaded synchronized generating capacity that is immediately responsive to system frequency and that is capable of being loaded in a short time period or non-generation resources capable of providing this service (Ancillary Service). For Contracts, reported if the contract provides for sale of the product. For Transactions, sales by third-party providers (i.e., non-transmission function) are reported. |
| SUPPLEMENTAL RESERVE | ✓ | ✓ | Service needed to serve load in the event of a system contingency, available with greater delay than SPINNING RESERVE. This service may be provided by generating units that are on-line but unloaded, by quick-start generation, or by interruptible load or other non-generation resources capable of providing this service (Ancillary Service). For Contracts, reported if the contract provides for sale of the product. For Transactions, sales by third-party providers (i.e., non-transmission function) are reported. |
| SYSTEM OPERATING AGREEMENTS | ✓ | | An executed agreement that contains the terms and conditions under which a system or network customer shall operate its facilities and the technical and operational matters associated with the implementation of network. |
| TOLLING ENERGY | ✓ | ✓ | Energy sold from a plant whereby the buyer provides fuel to a generator (seller) and receives power in return for pre-established fees. |
| TRANSMISSION OWNERS AGREEMENT | ✓ | | The agreement that establishes the terms and conditions under which a transmission owner transfers operational control over designated transmission facilities. |
| UPLIFT | ✓ | ✓ | A make-whole payment by an RTO/ISO to a utility. |

## EQR Data Dictionary

**Appendix B. Balancing Authority***

| Balancing Authority | Abbreviation | Outside US* |
|---|---|---|
| AEP Service Corp. -- Transmission System | AEP | |
| AESC, LLC - AEBN | AEBN | |
| AESC, LLC - Gleason | AEGL | |
| AESC, LLC - Lincoln Center | AELC | |
| AESC, LLC - Wheatland CIN | AEWC | |
| AESC, LLC - Wheatland IPL | AEWI | |
| Alabama Electric Cooperative, Inc. | AEC | |
| Alberta Electric System Operator | AESO | ✓ |
| Alliant Energy Corporate Services, LLC | ALEX | |
| Alliant Energy Corporate Services, LLC | ALWX | |
| Alliant Energy Corporate Services, LLC - East | ALTE | |
| Alliant Energy Corporate Services, LLC- West | ALTW | |
| Ameren Transmission | AMRN | |
| Ameren Transmission-Illinois | AMIL | |
| Ameren Transmission-Missouri | AMMO | |
| American Transmission Systems, Inc. | FE | |
| Aquila Networks - Kansas | WPEK | |
| Aquila Networks - Missouri Public Service | MPS | |
| Aquila Networks - West Plains Dispatch | WPEC | |
| Arizona Public Service Company | AZPS | |
| Associated Electric Cooperative, Inc. | AECI | |
| Avista Corp. | AVA | |
| B.C. Hydro & Power Authority | BCHA | ✓ |
| Batesville Balancing Authority | BBA | |
| Batesville Control Area | BCA | |
| BC Hydro T & D - Grid Operations | BCHA | ✓ |
| Big Rivers Electric Corp. | BREC | |
| Board of Public Utilities | KACY | |
| Bonneville Power Administration Transmission | BPAT | |
| BridgeCo | DSK1 | |
| British Columbia Transmission Corporation | BCTC | ✓ |
| California Independent System Operator | CISO | |
| Carolina Power & Light Company - CPLW | CPLW | |
| Carolina Power and Light Company - East | CPLE | |
| Central and Southwest | CSWS | |
| Central Illinois Light Co | CILC | |
| Chelan County PUD | CHPD | |

## EQR Data Dictionary

| Balancing Authority | Abbreviation | Outside US* |
|---|---|---|
| Cinergy Corporation | CIN | |
| City of Homestead | HST | |
| City of Independence P&L Dept. | INDN | |
| City of Tallahassee | TAL | |
| City Water Light & Power | CWLP | |
| Cleco Power LLC | CLEC | |
| Columbia Water & Light | CWLD | |
| Comision Federal de Electricidad | CFE | ✓ |
| Comision Federal de Electricidad | CFEN | ✓ |
| Commonwealth Edison | CE | |
| Constellation Energy Control and Dispatch | GRIF | |
| Constellation Energy Control and Dispatch - Arkansas | PUPP | |
| Constellation Energy Control and Dispatch - City of Benton, Arkansas | BUBA | |
| Constellation Energy Control and Dispatch - City of Ruston, LA | DERS | |
| Constellation Energy Control and Dispatch - Conway, Arkansas | CNWY | |
| Constellation Energy Control and Dispatch - Gila River | GRMA | |
| Constellation Energy Control and Dispatch - Glacier Wind Energy | GWA | |
| Constellation Energy Control and Dispatch - Harquehala | HGMA | |
| Constellation Energy Control and Dispatch - North Little Rock, AK | DENL | |
| Constellation Energy Control and Dispatch - Osceola Municipal Light an | OMLP | |
| Constellation Energy Control and Dispatch - Plum Point | PLUM | |
| Constellation Energy Control and Dispatch - Vermillion | DEVI | |
| Constellation Energy Control and Dispatch - West Memphis, Arkansas | WMUC | |
| Dairyland Power Cooperative | DPC | |
| Dayton Power & Light | DPL | |
| DECA, LLC | BERC | |
| DECA, LLC | DEHA | |
| DECA, LLC | DELO | |
| DECA, LLC | DEMG | |
| DECA, LLC | DESM | |
| DECA, LLC - Arlington Valley | DEAA | |
| DECA, LLC - Enterprise | DEEM | |
| DECA, LLC - Lee | DELI | |
| DECA, LLC - Murray | DEMT | |
| DECA, LLC - Sandersville | DESG | |
| DECA, LLC - Washington | DEWO | |
| Dominion Virginia Power | VAP | |
| Duke Energy Corporation | DUK | |
| Duquesne Light | DLCO | |

## EQR Data Dictionary

| Balancing Authority | Abbreviation | Outside US* |
|---|---|---|
| East Kentucky Power Cooperative, Inc. | EKPC | |
| El Paso Electric | EPE | |
| Electric Energy, Inc. | EEI | |
| Empire District Electric Co., The | EDE | |
| Entergy | EES | |
| ERCOT ISO | ERCO | |
| Florida Municipal Power Pool | FMPP | |
| Florida Power & Light | FPL | |
| Florida Power Corporation | FPC | |
| Gainsville Regional Utilities | GVL | |
| Georgia System Operations Corporation | GSOC | |
| Georgia Transmission Corporation | GTC | |
| Grand River Dam Authority | GRDA | |
| Grant County PUD No.2 | GCPD | |
| Great River Energy | GRE | |
| Great River Energy | GREC | |
| Great River Energy | GREN | |
| Great River Energy | GRES | |
| GridAmerica | GA | |
| Hoosier Energy | HE | |
| Hydro-Quebec, TransEnergie | HQT | ✓ |
| Idaho Power Company | IPCO | |
| Illinois Power Co. | IP | |
| Illinois Power Co. | IPRV | |
| Imperial Irrigation District | IID | |
| Indianapolis Power & Light Company | IPL | |
| ISO New England Inc. | ISNE | |
| JEA | JEA | |
| Kansas City Power & Light, Co | KCPL | |
| Lafayette Utilities System | LAFA | |
| LG&E Energy Transmission Services | LGEE | |
| Lincoln Electric System | LES | |
| Los Angeles Department of Water and Power | LDWP | |
| Louisiana Energy & Power Authority | LEPA | |
| Louisiana Generating, LLC | LAGN | |
| Louisiana Generating, LLC - City of Conway | CWAY | |
| Louisiana Generating, LLC - City of West Memphis | WMU | |
| Louisiana Generating, LLC - North Little Rock | NLR | |
| Madison Gas and Electric Company | MGE | |

## EQR Data Dictionary

| Balancing Authority | Abbreviation | Outside US* |
|---|---|---|
| MHEB, Transmission Services | MHEB | ✓ |
| Michigan Electric Coordinated System | MECS | |
| Michigan Electric Coordinated System - CONS | CONS | |
| Michigan Electric Coordinated System - DECO | DECO | |
| MidAmerican Energy Company | MEC | |
| Midwest ISO | MISO | |
| Minnesota Power, Inc. | MP | |
| Montana-Dakota Utilities Co. | MDU | |
| Muscatine Power and Water | MPW | |
| Nebraska Public Power District | NPPD | |
| Nevada Power Company | NEVP | |
| New Brunswick Power Corporation | NBPC | ✓ |
| New Brunswick System Operator | NBSO | ✓ |
| New Horizons Electric Cooperative | NHC1 | |
| New York Independent System Operator | NYIS | |
| North American Electric Reliability Council | TEST | |
| Northern Indiana Public Service Company | NIPS | |
| Northern States Power Company | NSP | |
| NorthWestern Energy | NWMT | |
| NRG South Central Generating LLC | MCLN | |
| Ohio Valley Electric Corporation | OVEC | |
| Oklahoma Gas and Electric | OKGE | |
| Ontario - Independent Electricity Market Operator | IMO | ✓ |
| Ontario - Independent Electricity System Operator | ONT | ✓ |
| OPPD CA/TP | OPPD | |
| Otter Tail Power Company | OTP | |
| P.U.D. No. 1 of Douglas County | DOPD | |
| PacifiCorp-East | PACE | |
| PacifiCorp-West | PACW | |
| PJM Interconnection | PJM | |
| Portland General Electric | PGE | |
| Public Service Company of Colorado | PSCO | |
| Public Service Company of New Mexico | PNM | |
| Puget Sound Energy Transmission | PSEI | |
| Reedy Creek Improvement District | RC | |
| Sacramento Municipal Utility District | SMUD | |
| Salt River Project | SRP | |
| Santee Cooper | SC | |
| SaskPower Grid Control Centre | SPC | ✓ |

## EQR Data Dictionary

| Balancing Authority | Abbreviation | Outside US* |
|---|---|---|
| Seattle City Light | SCL | |
| Seminole Electric Cooperative | SEC | |
| Sierra Pacific Power Co. - Transmission | SPPC | |
| South Carolina Electric & Gas Company | SCEG | |
| South Mississippi Electric Power Association | SME | |
| South Mississippi Electric Power Association | SMEE | |
| Southeastern Power Administration - Hartwell | SEHA | |
| Southeastern Power Administration - Russell | SERU | |
| Southeastern Power Administration - Thurmond | SETH | |
| Southern Company Services, Inc. | SOCO | |
| Southern Illinois Power Cooperative | SIPC | |
| Southern Indiana Gas & Electric Co. | SIGE | |
| Southern Minnesota Municipal Power Agency | SMP | |
| Southwest Power Pool | SWPP | |
| Southwestern Power Administration | SPA | |
| Southwestern Public Service Company | SPS | |
| Sunflower Electric Power Corporation | SECI | |
| Tacoma Power | TPWR | |
| Tampa Electric Company | TEC | |
| Tennessee Valley Authority ESO | TVA | |
| Trading Hub | HUB | |
| TRANSLink Management Company | TLKN | |
| Tucson Electric Power Company | TEPC | |
| Turlock Irrigation District | TIDC | |
| Upper Peninsula Power Co. | UPPC | |
| Utilities Commission, City of New Smyrna Beach | NSB | |
| Westar Energy - MoPEP Cities | MOWR | |
| Western Area Power Administration - Colorado-Missouri | WACM | |
| Western Area Power Administration - Lower Colorado | WALC | |
| Western Area Power Administration - Upper Great Plains East | WAUE | |
| Western Area Power Administration - Upper Great Plains West | WAUW | |
| Western Farmers Electric Cooperative | WFEC | |
| Western Resources dba Westar Energy | WR | |
| Wisconsin Energy Corporation | WEC | |
| Wisconsin Public Service Corporation | WPS | |
| Yadkin, Inc. | YAD | |

* Balancing Authorities outside the United States may only be used in the contract data section to identify specified receipt/delivery points in jurisdictional transmission contracts.

**Appendix C. Hub**

| HUB | Definition |
|---|---|
| ADHUB | The aggregated Locational Marginal Price ("LMP") nodes defined by PJM Interconnection, LLC as the AEP/Dayton Hub. |
| AEPGenHub | The aggregated Locational Marginal Price ("LMP") nodes defined by PJM Interconnection, LLC as the AEPGenHub. |
| COB | The set of delivery points along the California-Oregon commonly identified as and agreed to by the counterparties to constitute the COB Hub. |
| Cinergy (into) | The set of delivery points commonly identified as and agreed to by the counterparties to constitute delivery into the Cinergy balancing authority. |
| Entergy (into) | The set of delivery points commonly identified as and agreed to by the counterparties to constitute delivery into the Entergy balancing authority |
| FE Hub | The aggregated Elemental Pricing nodes ("Epnodes") defined by the Midwest Independent Transmission System Operator, Inc., as FE Hub (MISO). |
| Four Corners | The set of delivery points at the Four Corners power plant commonly identified as and agreed to by the counterparties to constitute the Four Corners Hub. |
| Illinois Hub (MISO) | The aggregated Elemental Pricing nodes ("Epnodes") defined by the Midwest Independent Transmission System Operator, Inc., as Illinois Hub (MISO). |
| Indiana Hub (MISO) | The aggregated Elemental Pricing nodes ("Epnodes") defined by the Midwest Independent Transmission System Operator, Inc., as Indiana Hub (MISO). |
| Mead | The set of delivery points at or near Hoover Dam commonly identified as and agreed to by the counterparties to constitute the Mead Hub. |
| Michigan Hub (MISO) | The aggregated Elemental Pricing nodes ("Epnodes") defined by the Midwest Independent Transmission System Operator, Inc., as Michigan Hub (MISO). |
| Mid-Columbia (Mid-C) | The set of delivery points along the Columbia River commonly identified as and agreed to by the counterparties to constitute the Mid-Columbia Hub |
| Minnesota Hub (MISO) | The aggregated Elemental Pricing nodes ("Epnodes") defined by the Midwest IndependentTransmission System Operator, Inc., as Minnesota Hub (MISO). |
| NEPOOL (Mass Hub) | The aggregated Locational Marginal Price ("LMP") nodes defined by ISO New England Inc., as Mass Hub |
| NIHUB | The aggregated Locational Marginal Price ("LMP") nodes defined by PJM Interconnection, LLC as the Northern Illinois Hub. |
| NOB | The set of delivery points along the Nevada-Oregon border commonly identified as and agreed to by the counterparties to constitute the NOB Hub. |
| NP15 | The set of delivery points north of Path 15 on the California transmission grid commonly identified as and agreed to by the counterparties to constitute the NP15 Hub. |
| NWMT | The set of delivery points commonly identified as and agreed to by the counterparties to constitute delivery into the Northwestern Energy Montana balancing authority. |
| PJM East Hub | The aggregated Locational Marginal Price nodes ("LMP") defined by PJM Interconnection, LLC as the PJM East Hub. |
| PJM South Hub | The aggregated Locational Marginal Price ("LMP") nodes defined by PJM Interconnection, LLC as the PJM South Hub. |
| PJM West Hub | The aggregated Locational Marginal Price ("LMP") nodes defined by PJM Interconnection, LLC as the PJM Western Hub. |
| Palo Verde | The switch yard at the Palo Verde nuclear power station west of Phoenix in Arizona. Palo Verde Hub includes the Hassayampa switchyard 2 miles south of Palo Verde. |
| SOCO (into) | The set of delivery points commonly identified as and agreed to by the counterparties to constitute delivery into the Southern Company balancing authority. |
| SP15 | The set of delivery points south of Path 15 on the California transmission grid commonly identified as and agreed to by the counterparties to constitute the SP15 Hub. |
| TVA (into) | The set of delivery points commonly identified as and agreed to by the counterparties to constitute delivery into the Tennessee Valley Authority balancing authority. |
| ZP26 | The set of delivery points associated with Path 26 on the California transmission grid commonly identified as and agreed to by the counterparties to constitute the ZP26 Hub. |

EQR Data Dictionary

Appendix D. Time Zone

| Time Zone | Definition |
|---|---|
| AD | *Atlantic Daylight* |
| AP | *Atlantic Prevailing* |
| AS | *Atlantic Standard* |
| CD | *Central Daylight* |
| CP | *Central Prevailing* |
| CS | *Central Standard* |
| ED | *Eastern Daylight* |
| EP | *Eastern Prevailing* |
| ES | *Eastern Standard* |
| MD | *Mountain Daylight* |
| MP | *Mountain Prevailing* |
| MS | *Mountain Standard* |
| NA | *Not Applicable* |
| PD | *Pacific Daylight* |
| PP | *Pacific Prevailing* |
| PS | *Pacific Standard* |
| UT | *Universal Time* |

EQR Data Dictionary

Appendix E. Units

| Units | Definition |
|---|---|
| KV | *Kilovolt* |
| KVA | *Kilovolt Amperes* |
| KVR | *Kilovar* |
| KW | *Kilowatt* |
| KWH | *Kilowatt Hour* |
| KW-DAY | *Kilowatt Day* |
| KW-MO | *Kilowatt Month* |
| KW-WK | *Kilowatt Week* |
| KW-YR | *Kilowatt Year* |
| MVAR-YR | *Megavar Year* |
| MW | *Megawatt* |
| MWH | *Megawatt Hour* |
| MW-DAY | *Megawatt Day* |
| MW-MO | *Megawatt Month* |
| MW-WK | *Megawatt Week* |
| MW-YR | *Megawatt Year* |
| RKVA | *Reactive Kilovolt Amperes* |
| FLAT RATE | *Flat Rate* |

EQR Data Dictionary

Appendix F. Rate Units

| Rate Units | Definition |
|---|---|
| $/KV | *dollars per kilovolt* |
| $/KVA | *dollars per kilovolt amperes* |
| $/KVR | *dollars per kilovar* |
| $/KW | *dollars per kilowatt* |
| $/KWH | *dollars per kilowatt hour* |
| $/KW-DAY | *dollars per kilowatt day* |
| $/KW-MO | *dollars per kilowatt month* |
| $/KW-WK | *dollars per kilowatt week* |
| $/KW-YR | *dollars per kilowatt year* |
| $/MW | *dollars per megawatt* |
| $/MWH | *dollars per megawatt hour* |
| $/MW-DAY | *dollars per megawatt day* |
| $/MW-MO | *dollars per megawatt month* |
| $/MW-WK | *dollars per megawatt week* |
| $/MW-YR | *dollars per megawatt year* |
| $/MVAR-YR | *dollars per megavar year* |
| $/RKVA | *dollars per reactive kilovar amperes* |
| CENTS | *cents* |
| CENTS/KVR | *cents per kilovolt amperes* |
| CENTS/KWH | *cents per kilowatt hour* |
| FLAT RATE | *rate not specified in any other units* |

EQR Data Dictionary

Appendix G. Index Price Publisher

| Index PricePublisher Abbreviation | Index Price Publisher |
|---|---|
| AM | *Argus Media* |
| EIG | *Energy Intelligence Group, Inc.* |
| IP | *Intelligence Press* |
| P | *Platts* |
| B | *Bloomberg* |
| Pdx | *Powerdex* |
| SNL | *SNL Energy* |

## EQR Data Dictionary
## ID Data

Appendix H. Exchange/Broker Services

| Exchange/Brokerage Service | Definition |
|---|---|
| BROKER | *A broker was used to consummate or effectuate the transaction.* |
| ICE | *Intercontinental Exchange* |
| NODAL | *Nodal Exchange* |
| NYMEX | *New York Mercantile Exchange* |

[FR Doc. 2014–07121 Filed 4–3–14; 8:45 am]
BILLING CODE 6717–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 1

**[Docket No. FDA–2002–N–0153 (Formerly Docket No. 2002N–0277)]**

**RIN 0910–AG73**

## Establishment, Maintenance, and Availability of Records: Amendment to Record Availability Requirements

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is issuing a final regulation that adopts, without change, the interim final rule (IFR) entitled ''Establishment, Maintenance, and Availability of Records: Amendment to Record Availability Requirements.'' This final rule affirms the IFR's change to FDA's records access as required by the FDA Food Safety Modernization Act (FSMA). Prior to the passage of FSMA, the Federal Food, Drug, and Cosmetic Act (the FD&C Act) provided the Secretary (by delegation FDA) with access to records relating to food that

FDA reasonably believes to be adulterated and presents a threat of serious adverse health consequences or death to humans or animals. The FSMA amendment expands FDA's former records access authority beyond records relating to the specific suspect article of food to include records relating to any other article of food that FDA reasonably believes is likely to be affected in a similar manner. In addition, the FSMA amendment permits FDA to access records relating to articles of food for which FDA believes that there is a reasonable probability that the use of or exposure to the article of food, and any other article of food that FDA reasonably believes is likely to be affected in a similar manner, will cause serious adverse health consequences or death to humans or animals. This final rule does not make any changes to the regulatory requirements established by the IFR. The final regulation also responds to comments submitted in response to the request for comments in the IFR.

**DATES:** This final rule is effective April 4, 2014.

**FOR FURTHER INFORMATION CONTACT:** William A. Correll, Jr., Office of Compliance, Center for Food Safety and Applied Nutrition (HFS–607), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–1611.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Each year about 48 million people (1 in 6 Americans) get sick from foodborne diseases, 128,000 are hospitalized, and 3,000 die, according to 2011 data from the Centers for Disease Control and Prevention (*http://www.cdc.gov/foodborneburden/2011-foodborne-estimates.html*). This is a significant public health burden that is largely preventable.

FSMA (Pub. L. 111–353), signed into law by President Obama on January 4, 2011, enables FDA to better protect public health by helping to ensure the safety and security of the food supply. It enables FDA to focus more on preventing food safety problems rather than relying primarily on reacting to problems after they occur. The law also provides FDA with new enforcement authorities to help it achieve higher rates of compliance with prevention- and risk-based food safety standards and to better respond to and contain problems when they do occur. The law also gives FDA important new tools to better ensure the safety of imported foods and directs FDA to build an integrated national food safety system in partnership with State and local authorities.

Section 101 of FSMA amended section 414(a) of the FD&C Act (21 U.S.C. 350c(a)). Section 414 was added to the FD&C Act by the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Bioterrorism Act) (Pub. L. 107–188). Prior to the passage of FSMA, section 414(a) of the FD&C Act provided the Secretary (by delegation FDA) with access to records relating to food that FDA reasonably believes to be adulterated and presents a threat of serious adverse health consequences or death to humans or animals. As amended by FSMA, section 414(a)(1) of the FD&C Act expands FDA's access to records beyond records relating to the specific suspect article of food to include records relating to any other article of food that FDA reasonably believes is likely to be affected in a similar manner. In addition, FDA can now, under section 414(a)(2) of the FD&C Act, access records if FDA believes that there is a reasonable probability that the use of or exposure to an article of food, and any other article of food that FDA reasonably believes is likely to be affected in a similar manner, will cause serious adverse health consequences or death to humans or animals. Section 414(a)(1) and (2) of the FD&C Act both provide that, at the request of an officer or employee duly designated by FDA, ''each person (excluding farms and restaurants) who manufactures, processes, packs, distributes, receives, holds, or imports such article [(the suspect food)] shall . . . permit such officer or employee . . . at reasonable times and within reasonable limits and in a reasonable manner, to have access to and copy all records relating to such article and any other article of food that [FDA] reasonably believes is likely to be affected in a similar manner. . .'' The designated officer or employee shall have access to such records upon presentation of the appropriate credentials and a written notice to such person. FDA shall have access to the records that are needed to assist FDA in determining whether the food is adulterated and presents a threat of serious adverse health consequences or death to humans or animals under section 414(a)(1) or whether there is a reasonable probability that use or exposure to the food will cause serious adverse health consequences or death to humans or animals under section 414(a)(2).

The Bioterrorism Act also amended section 704(a)(1)(B) of the FD&C Act (21 U.S.C. 374(a)(1)(B)) to include a cross-reference to section 414 of the FD&C Act. Section 101 of FSMA amends this section by updating the cross-reference to refer to the amended version of section 414(a). The amendments made by section 101 of FSMA to the FD&C Act were effective upon enactment of the law (January 4, 2011).

On February 23, 2012, FDA issued an IFR (77 FR 10658) that implemented section 101 of FSMA by amending the relevant requirements in FDA's regulation on the establishment, maintenance, and availability of records and also contained a request for comments. The IFR became effective on March 1, 2012. This final rule adopts, without making any changes, the regulatory requirements established in the IFR.

To the extent that 5 U.S.C. 553 applies to this action, the Agency's implementation of this action with immediate effective date comes within the good cause exception in 5 U.S.C. 553(d)(3) (21 CFR 10.40(c)(4)(ii)). As this final rule imposes no new regulatory requirements, a delayed effective date is unnecessary.

## II. Comments on the IFR

FDA received two responsive comments to the IFR. After considering these comments, the Agency is not making any changes to the regulatory language included in the IFR. Relevant portions of the responsive comments are summarized and responded to in this document. The Agency did not consider nonresponsive comments in developing this final rule. To make it easier to identify comments and FDA's responses, the word ''Comment,'' in parentheses, appears before the comment's description, and the word ''Response,'' in parentheses, appears before FDA's response. Each comment is numbered to help distinguish between different comments. The number assigned to each comment is purely for organizational purposes and does not signify the comment's value or importance.

(Comment 1) Comments requested that the Agency clarify the meaning of the new records access authority in section 414(a) of the FD&C Act, and in particular, the phrases ''reasonably believes is likely to be affected in a similar manner'' and ''reasonable probability that the use of or exposure to an article of food will cause serious adverse health consequences or death.''

(Response) As stated in the IFR (77 FR 10658 at 10659), decisions regarding whether FDA ''reasonably believes [a food] is likely to be affected in a similar manner'' to cause serious adverse health consequences or death to humans or

animals and whether there is a ''reasonable probability that the use of or exposure to an article of food will cause serious adverse health consequences or death'' will be made on a case-by-case basis because such decisions are fact-specific. The Agency will consider the individual facts in each particular situation to inform its decisions. Because such decisions are fact-specific, FDA has not, therefore, amended the regulation to provide additional explanation of the records access authority.

(Comment 2) FDA received a comment asking that we address all costs, such as large costs (e.g., updating a records system), small costs (e.g., copying records), and cumulative costs (e.g., reassigning personnel from their normal activities in order to respond to a records access request from FDA), associated with providing FDA access to records, as these costs can be debilitating to small businesses.

(Response) FDA does not expect firms to incur any large costs associated with this rule because, as stated in the IFR, this rule only affects FDA's records access and does not impose any new record maintenance requirements. Further, this rule only affects FDA's access to already existing records and as such, it neither requires firms to change or upgrade their current records management systems or procedures, nor does it require firms to make new records.

Also, as stated in the economic impact analysis of the IFR, to the extent that FDA requests access to more records than it was previously allowed to access under similar circumstances, businesses may incur additional retrieval costs per record (77 FR 10658 at 10661). Retrieval costs would include the time and opportunity costs of reassigning personnel from normal activities to retrieve, copy, or print records and can also include the costs of copying or printing equipment. However, the costs of retrieving one or more additional record from any number of records or the opportunity costs of reassigning personnel from regular duties to retrieve additional records in response to a records access request are considered part of a firm's private costs for planning for a records access request. These costs are determined by a firm's business plan. This business plan will vary by firm as each firm has its own policy on preparing for and responding to FDA records requests. Any potential changes to the business plan that a firm may make as a result of this rule are driven by internal firm decisions and thus, are not factored into the overall cost of the rule.

Consequently, any potential costs to businesses from this rule in general and in terms of retrieving more records than under the final regulation on the establishment, maintenance, and availability of records, published in 2004 (69 FR 71562; December 9, 2004) are still expected to be small.

## III. Executive Order 12866 and Executive Order 13563: Cost Benefit Analysis

FDA has examined the impacts of this final rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct Agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. OMB has determined that this is a significant regulatory action as defined by the Executive Orders.

The Regulatory Flexibility Act requires Agencies to determine whether a final rule will have a significant impact on small entities when an Agency issues a final rule ''after being required . . . to publish a general notice of proposed rulemaking.'' Although we are not required to perform a regulatory flexibility analysis because we were not required to publish a proposed rule prior to this final rule, we have nonetheless conducted a regulatory flexibility analysis for this final rule. Because the additional costs per entity of this rule are negligible if any, the Agency also concludes that this final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that Agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $141 million, using the most current (2012) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount.

In 2003, FDA analyzed the economic impact of the proposed rule to require the establishment, maintenance, and availability of records requirements under the Bioterrorism Act (68 FR 25188 at 25199; May 9, 2003). The rule finalizing these requirements, published in 2004, contained an Economic Impact Analysis (69 FR 71562 at 71611) which revised the analysis set forth in the 2003 proposed rule in response to comments received and to account for the changes between the proposed and final rules.

In 2012, FDA issued the IFR amending certain requirements in the regulation on the establishment, maintenance, and availability of records to be consistent with changes to the FD&C Act made by section 101 of FSMA. The Economic Impact Analysis in the 2012 IFR explained and further revised the analysis set forth in the 2004 final rule by addressing the economic impact of the changes to the regulation to be consistent with the amendments to the FD&C Act made by section 101 of FSMA. This final rule adopts, without making any changes, the regulatory requirements established in the IFR.

FDA did not receive any comments that would warrant further revising the economic analysis of the IFR. Thus, this economic analysis affirms the economic impact analysis of the IFR. For a full explanation of the economic impact analysis of this final rule, interested persons are directed to the text of the economic impact analyses in the IFR (77 FR 10658 at 10660) and the 2004 final rule (69 FR 71562 at 71611).

## IV. Small Entity Analysis (or Final Regulatory Flexibility Analysis)

A regulatory flexibility analysis is required only when an Agency must publish a notice of proposed rulemaking (5 U.S.C. 603, 604). FDA published the IFR without a notice of proposed rulemaking after finding good cause that the use of prior notice and comment procedures would be contrary to the public interest. Although FDA determined that it was not required to publish a notice of proposed rulemaking and, therefore, that no regulatory flexibility analysis is required, FDA has nonetheless conducted such an analysis and examined the economic implications of this final rule on small entities. Although this final rule is a significant regulatory action as defined by Executive Order 12866, FDA also concludes that this final rule will not

have a significant impact on a substantial number of small entities.

**V. Paperwork Reduction Act of 1995**

This final rule contains information collection provisions that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). We conclude that these information collection provisions are exempt from OMB review under 44 U.S.C. 3518(c)(1)(B)(ii) and 5 CFR 1320.4(a)(2) as collections of information obtained during the conduct of a civil action to which the United States or any official or Agency thereof is a party, or during the conduct of an administrative action, investigation, or audit involving an Agency against specific individuals or entities. The regulations in 5 CFR 1320.3(c) provide that the exception in 5 CFR 1320.4(a)(2) applies during the entire course of the investigation, audit, or action, but only after a case file or equivalent is opened with respect to a particular party. Such a case file would be opened as part of the request to access records under 21 CFR 1.361.

**VI. Analysis of Environmental Impact**

The Agency has carefully considered the potential environmental effects of this action. FDA has concluded under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

**VII. Federalism**

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the Agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive Order and, consequently, a federalism summary impact statement is not required.

**List of Subjects in 21 CFR Part 1**

Cosmetics, Drugs, Exports, Food labeling, Imports, Labeling, Reporting and recordkeeping requirements.

## PART 1—GENERAL ENFORCEMENT REGULATIONS

■ Accordingly, the interim rule amending 21 CFR part 1, which was published at 77 FR 10658 (February 23, 2012), is adopted as a final rule without change.

Dated: April 1, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–07550 Filed 4–3–14; 8:45 am]

**BILLING CODE 4160–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R05–OAR–2013–0646; FRL–9908–72–Region 5]**

### Approval and Promulgation of Air Quality Implementation Plans; Michigan; PSD Rules for $PM_{2.5}$

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct Final Rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving revisions to Michigan's Prevention of Significant Deterioration (PSD) Program rules and definitions, including revisions to Parts 1 and 18 of Michigan's Air Pollution Control Rules into Michigan's State Implementation Plan (SIP). The revised rules address the Federal requirements for significant emission levels, and definitions for fine particulate matter ($PM_{2.5}$). The Michigan Department of Environmental Quality (MDEQ) submitted these revisions to EPA on August 9, 2013, and September 19, 2013.

**DATES:** This direct final rule is effective June 3, 2014, unless EPA receives adverse comments by May 5, 2014. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2013–0646, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: damico.genevieve@epa.gov.*
3. *Fax:* (312) 886–0968.
4. *Mail:* Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA–R05–OAR–2013–0646. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Constantine Blathras, Environmental

Engineer, at (312) 886–0671 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Constantine Blathras, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–0671, *Blathras.constantine@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background
II. What action is EPA taking?
III. Statutory and Executive Order Reviews.

## I. Background

On August 9, 2013, MDEQ submitted revisions to Michigan rules R 336.2801, Definitions; R 336.2803, Ambient air increments; and R 336.2816, Sources impacting Federal Class I areas, additional requirements, which reflect changes to Federal rules on $PM_{2.5}$ and ozone precursors. MDEQ also submitted various revisions to Michigan rule R 336.2809 to allow for the exemption from permitting requirements of minimal air quality impacts from new sources; however, MDEQ has requested that EPA not act on subsection R 336.2809(5)(a)(iii), which creates a significant monitoring concentration (SMC) for $PM_{2.5}$. Michigan had promulgated this subsection before the U.S. Court of Appeals for the District of Columbia Circuit vacated the Federal $PM_{2.5}$ SMC on January 22, 2013. On September 19, 2013, MDEQ submitted revisions to definitions in Michigan rules R 336.1116, R 336.1119, and R 336.1122 to address additional changes to Federal rules. The revisions to rules R 336.1116 and R 336.1119 add significance levels and definitions for $PM_{2.5}$ and account for $PM_{2.5}$ and $PM_{10}$ condensables in applicability determinations and in establishing emissions limits. The revision to R 336.1122(f) updates the definition of volatile organic compounds to exclude additional compounds with negligible reactivity in the formation of ozone that have been approved by EPA. However, MDEQ has asked EPA not to act on the revision to the definition of ''significant'' in rule R 336.1119 at this time. Michigan will resubmit revisions to that definition at a later date.

## II. What action is EPA taking?

EPA is approving the submitted revisions to Michigan's Part 1 definitions, with the exception of the definition of ''significant'' in rule R 336.1119. EPA has determined that the revised rules comply with the revisions to the Federal requirements found in 40 CFR 51.100, 51.165, and 51.166, pertaining to new definitions and provisions for $PM_{2.5}$.

EPA is approving the submitted revisions to Michigan's Part 18 PSD rules into the Michigan SIP, with the exception of R 336.2809(5)(a)(iii), on which we are taking no action. EPA has determined that the revised rules comply with the revisions to the Federal definitions and provisions pertaining to $PM_{2.5}$ found at 40 CFR 51.100, 51.165, and 51.166.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective June 3, 2014 without further notice unless we receive relevant adverse written comments by May 5, 2014. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. We then will address all public comments in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule that may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of the adverse comment. If we do not receive any adverse comments, this action will be effective June 3, 2014.

## III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**.

This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *June 3, 2014.* Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 17, 2014.

**Susan Hedman,**

*Regional Administrator, Region 5.*

40 CFR part 52 is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

■ 2. In § 52.1170 the table in paragraph (c) is amended by:

■ i. Revising the entries in ''Part 1. General Provisions'' for R 336.1116 and R 336.1122; and

■ ii. Revising the entries in ''Part 18. Prevention of Significant Deterioration of Air Quality'' for R 336.2801, R 336.2803, R 336.2809, and R 336.2816.

The revised text reads as follows:

**§ 52.1170 Identification of plan.**

* * * * *

(c) * * *

EPA-APPROVED MICHIGAN REGULATIONS

| Michigan citation | Title | State effective date | EPA approval date | Comments |
|---|---|---|---|---|
| * * | * | * | * * | * |
| **Part 1. General Provisions** | | | | |
| * * | * | * | * * | * |
| R 336.1116 | Definitions; P | 11/30/2012 | 4/4/14, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]. | |
| * * | * | * | * * | * |
| R 336.1122 | Definitions; V | 11/30/2012 | 4/4/14, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]. | |
| * * | * | * | * * | * |
| **Part 18. Prevention of Significant Deterioration of Air Quality** | | | | |
| R 336.2801 | Definitions | 11/30/2012 | 4/4/14, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]. | |
| * * | * | * | * * | * |
| R 336.2803 | Ambient Air Increments | 11/30/2012 | 4/4/14, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]. | |
| * * | * | * | * * | * |
| R 336.2809 | Exemptions | 11/30/2012 | 4/4/14, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]. | All except for section (5)(a)(iii) |
| * * | * | * | * * | * |
| R 336.2816 | Sources impacting federal class I areas; additional requirements. | 11/30/2012 | 4/4/14, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]. | |
| * * | * | * | * * | * |

[FR Doc. 2014–06825 Filed 4–3–14; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

**[EPA–HQ–OPP–2013–0258; FRL–9907–67]**

### Metaflumizone; Pesticide Tolerances

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of metaflumizone in or on eggplant, pepper, tomato, and tomato, paste. BASF Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective April 4, 2014. Objections and requests for hearings must be received on or before June 3, 2014, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2013–0258, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** Lois Rossi, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. General Information

*A. Does this action apply to me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

*B. How can I get electronic access to other related information?*

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

*C. How can I file an objection or hearing request?*

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2013–0258 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before June 3, 2014. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2013–0258, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

## II. Summary of Petitioned-for Tolerance

In the **Federal Register** of June 5, 2013 (78 FR 33785) (FRL–9386–2), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 3E8146) by BASF Corporation, P.O. Box 13528, Research Triangle Park, NC 27790. The petition requested that 40 CFR 180.657 be amended by establishing tolerances for residues of the insecticide metaflumizone, (E and Z isomers; 2-[2-(4-cyanophenyl)-1-[3-(trifluoromethyl) phenyl]ethylidene]-*N*-[4-(trifluoromethoxy)phenyl] hydrazinecarboxamide), and its metabolite (4-{2-oxo-2-[3-(trifluoromethyl) phenyl]ethyl}-benzonitrile), in or on eggplant at 0.6 parts per million (ppm); pepper at 0.6 ppm; and tomato at 0.6 ppm. That document referenced a summary of the petition prepared by BASF Corporation, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has determined that the tolerances for eggplant and pepper should each be established at 1.5 ppm, the tolerance for tomato should be established at 0.60 ppm, and that an additional tolerance for tomato, paste should be established at 1.2 ppm. The reasons for these changes are explained in Unit IV.C.

## III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include

occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for metaflumizone including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with metaflumizone follows.

*A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Hematotoxicity (toxicity of the blood) was the primary toxic effect of concern following subchronic or chronic oral exposures to metaflumizone. Splenic extramedullary hematopoiesis, increased hemosiderin, and anemia were the most common hematotoxic effects reported after repeated oral dosing with metaflumizone. Chronic oral (gavage) exposures to dogs resulted in slight decreases in mean corpuscular hemoglobin concentration and total hemoglobin, leading to increased plasma bilirubin, increased urinary urobilinogen, and increased hemosiderin in the liver. In a chronic toxicity/carcinogenicity study in mice, anemia was observed in the form of increased hemosiderin in the spleen, increased mean absolute reticulocyte count, decreased mean corpuscular volume, and mean corpuscular hemoglobin.

The postulated pesticidal mode of action of metaflumizone involves inhibition of sodium channels in target insect species; however, in mammals (rats), there were only clinical signs of neurotoxicity (i.e., piloerection and body temperature variations) with no neuropathology in the presence of systemic toxicity (e.g., recumbency and poor general state) following acute or repeated exposures. Similarly, several immune system organs seem to be affected following metaflumizone administration via the oral, dermal, and inhalation routes (e.g., the presence of macrophages in the thymus, lymphocyte necrosis in the mesenteric lymph nodes, and diffuse atrophy of the mandibular); however, there was no evidence of any functional deficits at the highest dose tested in a recently submitted and reviewed guideline immunotoxicity study. Therefore, the clinical neurotoxicity signs and the effects on the immune system organs following metaflumizone administration are likely to be secondary to the hematotoxic effects.

Metaflumizone induced an increased incidence of a missing subclavian artery at a relatively high dose that also caused severe maternal toxicity (e.g., late term abortions) in the developmental toxicity study in rabbits. There was no evidence (quantitative or qualitative) of increased susceptibility following *in utero* exposures to rats or rabbit and following pre- and post natal exposures. There was no evidence that metaflumizone is genotoxic and carcinogenicity studies with mice and rabbits were negative.

Specific information on the studies received and the nature of the adverse effects caused by metaflumizone as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document ''Metaflumizone: Human-Health Risk Assessment for Tolerances in/on Imported Tomato, Pepper, and Eggplant'' in docket ID number EPA–HQ–OPP–2013–0258.

*B. Toxicological Points of Departure/Levels of Concern*

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern (LOCs) to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for metaflumizone used for human risk assessment is provided below:

i. *Acute dietary endpoint (general population including infants and children).* An acute dietary endpoint was not established for this population group since an endpoint of concern (effect) attributable to a single dose was not identified in the database. Studies considered for this endpoint included the acute neurotoxicity study for which no toxicity was observed at any dose including the highest dose tested: The limit dose (1,000 mg/kg/day).

ii. *Acute dietary endpoint (females 13–49 years old).* This endpoint was established based on a developmental effect observed in the rabbit developmental toxicity study that can be potentially due to a single dose of metaflumizone. This effect consisted of an increased incidence of an absent subclavian artery in the offspring at the LOAEL of 300 mg/kg bw/day metaflumizone (NOAEL = 100 mg/kg bw/day). The rat developmental toxicity study was also considered for this endpoint; however, no developmental effects were observed in this study at the highest dose tested of 120 mg/kg bw/day metaflumizone. A combined uncertainty factor (UF) of 300 was applied to account for interspecies (10x) and intraspecies (10x) extrapolation. A Food Quality Protection Act (FQPA) safety factor (SF) of 3x was retained because the rabbit developmental toxicity study was performed via oral gavage dosing. In an absorption study submitted by the petitioner, dietary exposures (which are more relevant for human exposures) exhibited an approximately 2-fold greater absorption into the systemic circulation than oral gavage dosing and, thus, can potentially lead to toxicity at 2-fold lower levels of exposure. Thus, the acute population adjusted dose (aPAD) for females 13–49 years old is estimated to be 0.33 mg/kg bw/day.

iii. *Chronic dietary endpoint.* This endpoint was established based on the systemic toxicity observed in the chronic toxicity study with dogs. At the LOAEL of 30 mg/kg bw/day (NOAEL =

12 mg/kg bw/day), the effects consisted of reduced general health condition, slight to severe ataxia, recumbency, and severe salivation, slight decreases in mean corpuscular hemoglobin concentration and total hemoglobin, increased plasma bilirubin, increased urinary urobilinogen, and increased hemosiderin in the liver. A combined UF of 300 was applied to account for interspecies (10x) and intraspecies (10x) extrapolation and an FQPA safety factor of 3x. The FQPA safety factor of 3x was retained because the chronic toxicity study was performed via capsule dosing, which is a bolus dose very similar to gavage dosing (this accounts for the 2-fold greater absorption observed in dietary versus oral gavage exposures, as described in Unit III.B.ii.). Thus, the chronic population adjusted dose (cPAD) is estimated to be 0.040 mg/kg bw/day.

iv. *Incidental oral (short- and intermediate-term).* This endpoint was selected on the basis of the maternal effects observed in the rat 2-generation reproductive toxicity study at the LOAEL of 50 mg/kg bw/day metaflumizone (NOAEL = 20 mg/kg bw/day). Maternal toxicity consisted of poor general health and body weight deficits which were also associated with improper nursing behavior. Similar effects were also noted in a developmental neurotoxicity study (gavage, range finding) also considered for this endpoint. In this study, poor maternal health was also observed at the LOAEL of 120 mg/kg bw/day metaflumizone (NOAEL = 80 mg/kg bw/day). Both studies considered for this endpoint achieved a clear maternal NOAEL for the offspring effects, but the NOAEL of 20 mg/kg bw/day for the 2-generation reproductive toxicity study is considered more protective. The Agency's LOC for this scenario is 300 based on a 10x intraspecies factor, a 10x interspecies factor, and an FQPA safety factor of 3x (to account for the 2-fold greater absorption observed in dietary versus oral gavage exposures, as described in Unit III.B.ii.).

v. *Dermal (short- and intermediate-term).* This endpoint was based on a rat 90-day dermal toxicity study in which deficits in body weight, body-weight gain and food consumption (in males and females); anogenital smearing; increased macrophages in the thymus; lymphocyte necrosis in the mesenteric lymph nodes; diffuse atrophy of the mandibular lymph node; and increased hemosiderin in the liver (females only) were observed at the LOAEL of 300 mg/kg bw/day (NOAEL = 100 mg/kg bw/day). The Agency's LOC for this scenario is 100 based on a 10x interspecies factor and a 10x intraspecies factor.

vi. *Inhalation (short- and intermediate-term).* There is a 28-day inhalation study that is adequate for both exposure durations. There was no NOAEL identified for female rats. At the LOAEL of 0.10 mg/L metaflumizone (NOAEL = 0.03 mg/L), histopathology of the nasal tissues, lungs, thymus, prostate, and adrenal cortex was observed in males. The LOAEL identified in females resulted in lymphocyte necrosis in the mesenteric lymph node.

The methods and dosimetry equations described in EPA's reference concentration (RfC) guidance (1994) are suited for calculating human-equivalent concentrations (HECs) based on the inhalation toxicity point of departure (NOAEL, LOAEL) for use in MOE calculations. The regional-deposited-dose ratio (RDDR), which accounts for the particulate diameter (mass median aerodynamic diameter (MMAD) and geometric standard deviation [$\sigma_g$] of aerosols), can be used to estimate the different dose fractions deposited along the respiratory tract. The RDDR accounts for interspecies differences in ventilation and respiratory-tract surface areas. Thus, the RDDR can be used to adjust an observed inhalation particulate exposure of an animal to the predicted inhalation exposure for a human. For the subchronic inhalation toxicity study with metaflumizone, an RDDR was estimated at 2.81 based on systemic effects (lymphocyte necrosis in the mesenteric lymph node) in females at the LOAEL of 0.03 mg/L (no NOAEL established) and a MMAD of 1.7μm and $\sigma_g$ of 2.7.

For this action with metaflumizone, only residential handler scenarios are being assessed for which 2-hr/day inhalation exposures are assumed. Adjustment to shorter exposure scenarios relative to the animal toxicity study duration (e.g., 2 hr residential exposures) should only be made if there is time-course information that would support a shorter time-frame. Since there is no such information available for metaflumizone, the unadjusted animal POD was used for HEC estimation. The HEC equals the product of the LOAEL from the study and the RDDR or 0.084 mg/L. The FQPA SF of 10x is being retained for lack of a NOAEL for females in the study. The standard interspecies extrapolation UF can be reduced from 10x to 3x due to the HEC calculation accounting for interspecies differences in pharmacokinetics (not pharmacodynamic). The intraspecies UF remains at 10x. Therefore, the LOC for this scenario is 300, which includes the FQPA SF of 10x, interspecies (3x), and intraspecies (10x) extrapolation.

*C. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to metaflumizone, EPA considered exposure under the petitioned-for tolerances as well as all existing metaflumizone tolerances in 40 CFR 180.657. EPA assessed dietary exposures from metaflumizone in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for metaflumizone. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). This dietary survey was conducted from 2003 to 2008. As to residue levels in food, EPA assumed tolerance-level residues. It was further assumed that 100% of crops with the requested uses of metaflumizone were treated.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA NHANES/WWEIA. As to residue levels in food, EPA assumed tolerance-level residues. It was further assumed that 100% of crops with the requested uses of metaflumizone were treated.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that metaflumizone does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue or PCT information in the dietary assessment for metaflumizone. Tolerance level residues and/or 100% crop treated (CT) were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for metaflumizone in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of metaflumizone. Further information regarding EPA drinking water models used in pesticide exposure assessment

can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking water concentrations (EDWCs) of metaflumizone for acute exposures are estimated to be 1.14 parts per billion (ppb) for surface water and 0.00214 ppb for ground water. The EDWCs of metaflumizone for chronic exposures for non-cancer chronic assessments are estimated to be 0.597 ppb for surface water and 0.00214 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 1.14 ppb was used to assess the contribution of drinking water. For chronic dietary risk assessment, the water concentration value of 0.597 ppb was used to assess the contribution of drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Metaflumizone is currently registered for the following uses that could result in residential exposures: As a fire ant bait for application to lawns, landscapes, golf courses, and other non-cropland area; and as a fly bait for use around industrial buildings, commercial facilities, agricultural structures/premises, and recreational facilities/areas.

EPA assessed residential exposure using the following assumptions: Fire ant bait applications to home lawns are expected to result in short-term, residential handler exposure to adults. Fire ant bait applications to lawns and golf-courses are expected to result in short-term, post-application dermal exposure to adults, children 11 to <16 years old, and children 1 to <2 years old, and incident oral exposure for children 1 to <2 years old. For the fly bait product, residential handler exposure is not expected, because the product is applied by commercial handlers. The fly bait product is expected to result in short-term, post-application dermal exposure to adults, children 11 to <16 years old, and children 1 to <2 years old, and incident oral exposure for children 1 to <2 years old.

For residential handlers, dermal and inhalation exposures are combined since the endpoints are similar for these routes. For children (1- to <2-year-olds), post-application hand-to-mouth and dermal exposures are combined. Since the LOCs for the dermal, inhalation and incidental oral routes are not the same (dermal LOC = 100, inhalation LOC = 300, and incidental oral LOC = 300), these routes were combined using the aggregate risk index approach. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found metaflumizone to share a common mechanism of toxicity with any other substances, and metaflumizone does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that metaflumizone does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

*D. Safety Factor for Infants and Children*

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10x) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10x, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There is no evidence for increased qualitative or quantitative sensitivity/susceptibility resulting from pre- and/or postnatal exposures. In the rat prenatal development toxicity study, there was no offspring toxicity reported at any dose tested whereas in the rabbit study a maltransformation based on an absent subclavian artery was noted to occur only in the presence of severe maternal toxicity. Similarly, offspring mortality in the 2-generation reproductive toxicity occurred only in the presence of a poor maternal health state. Thus, there is no evidence for increased susceptibility.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced from 10x to 3x for all oral exposure scenarios; retained at 10x for inhalation exposure scenarios; and reduced to 1x for dermal exposures. That decision is based on the following findings:

i. The toxicity database for metaflumizone is complete.

ii. There is no indication that metaflumizone directly affects the nervous system. Clinical signs consisting of piloerection and body temperature variations were observed only in the absence of neuropathology and in the presence of a poor general state. There is no need for a developmental neurotoxicity study or additional uncertainty factors to account for neurotoxicity.

iii. There is no evidence that metaflumizone results in increased susceptibility in the prenatal developmental studies in rats and rabbits or in developing rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases.

The dietary analyses assumed tolerance-level residues, 100% CT, and modeled drinking water estimates. Therefore, EPA concludes that while the submission of data/information by the petitioner addressing the residue chemistry deficiencies identified in a previous petition may conceivably result in adjustment of the maximum theoretical residue estimate, actual metaflumizone dietary exposure estimates will not be greater than those generated in the current risk assessment. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to metaflumizone in drinking water. EPA used similarly conservative assumptions to assess postapplication exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by metaflumizone.

v. Dietary exposures (which are more relevant for human exposures) exhibited an approximately 2-fold greater absorption into the systemic circulation as compared to oral gavage and, thus,

can potentially lead to toxicity at 2-fold lower levels of exposure. Applying a FQPA SF of 3x for all oral exposure scenarios is adequate to protect against any greater toxicity that might occur in dietary exposures (absorption was noted to be 2-fold greater in dietary versus oral gavage studies).

vi. The FQPA SF of 10x is being retained for inhalation exposure scenarios for the use of a LOAEL instead of a NOAEL (no NOAEL achieved) for histopathological lesions consisting of lymphocyte necrosis in the mesenteric lymph node. The FQPA SF of 10x is adequate because the effect (lymphocyte necrosis) is considered minimal to slight and does not exhibit a strong dose dependence.

vii. The FQPA SF for dermal exposure scenarios is being reduced from 10x to 1x since there is a route-specific study with a clear NOAEL.

*E. Aggregate Risks and Determination of Safety*

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to metaflumizone will occupy 1.6% of the aPAD for females 13–49 years old.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to metaflumizone from food and water will utilize 5.8% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of metaflumizone is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Metaflumizone is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to metaflumizone. Since the LOC and toxicological points of departure for the short-term dermal and oral routes of exposure differ, the aggregate risk index method was used to determine aggregate risk (aggregate risk indices >1 are not a risk of concern).

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate risk indices of 43 for the general population, and 27 for children 1–2 years old. Because EPA's LOC for metaflumizone is an aggregate risk index less than 1, the aggregate risks are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Metaflumizone is currently registered for uses that could result in intermediate-term residential exposure; however, since the PODs for the short- and intermediate-term durations are the same for metaflumizone, the short-term aggregate assessment is protective of intermediate-term exposures.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, metaflumizone is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to metaflumizone residues.

**IV. Other Considerations**

*A. Analytical Enforcement Methodology*

Adequate enforcement methodology (liquid chromatograph/mass spectrometer/mass spectrometer (LC/MS/MS) Method 531/0) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

*B. International Residue Limits*

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has established an MRL for metaflumizone in or on tomato at 0.6 ppm. This MRL is the same as the tolerance established for metaflumizone in or on tomato in the United States. The Codex has established MRLs for metaflumizone in or on eggplant at 0.6 ppm and pepper at 0.6 ppm. These MRLs are different than the tolerances established for metaflumizone in the United States.

The currently established Codex MRLs are based on the 2009 Joint Food and Agricultural Organization/World Health Organization (FAO/WHO) Meeting on Pesticide Residues (JMPR) metaflumizone report, and this report was utilized in the Agency's residue chemistry review. The difference in the United States tolerances and the Codex MRLs is thus due to the following issues:

i. The United States metaflumizone tolerance expression for crops includes metaflumizone (E and Z isomers) and the metabolite M320I04. The Codex MRL expression differs in that it does not include M320I04. The Agency determined that M320I04 should be included as a residue of concern for risk assessment and tolerance enforcement purposes as it is identified at significant concentrations in the submitted metabolism study and is the primary residue in some processed commodities.

ii. Harmonization with the Codex MRLs for pepper and eggplant is not appropriate because the U.S. residue data for pepper (and eggplant by translation) indicate maximum residues of in excess of 0.6 ppm. The 1.5 ppm tolerances for both pepper and eggplant are based on the Organisation for Economic Co-operation and Development (OECD) tolerance-calculation procedure. The current Codex MRLs were established using the North American Free Trade Agreement (NAFTA) tolerance-calculation procedure which allowed the establishment of tolerances less than the

highest residues; the OECD tolerance-calculation procedure does not permit this.

*C. Revisions to Petitioned-for Tolerances*

For pepper and eggplant, the available data indicate that residues may be greater than the proposed 0.6 ppm tolerance. Using the OECD tolerance-calculation procedure, EPA determined that a tolerance of 1.5 ppm is appropriate for both pepper and eggplant. Based on the highest-average field-trial residue and an average tomato paste processing factor of 2.94x, the Agency concluded that a tomato, paste tolerance of 1.2 ppm should be established.

## V. Conclusion

Therefore, tolerances are established for residues of metaflumizone, (E and Z isomers; 2-[2-(4-cyanophenyl)-1-[3-(trifluoromethyl)phenyl]ethylidene]-*N*-[4-(trifluoromethoxy)phenyl] hydrazinecarboxamide) and its metabolite 4-{2-oxo-2-[3-(trifluoromethyl)phenyl]ethyl}-benzonitrile, in or on eggplant at 1.5 ppm; pepper at 1.5 ppm; tomato at 0.60 ppm; and tomato, paste at 1.2 ppm.

## VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

## VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

## List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 28, 2014.

**Lois Rossi,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.657:

■ a. Add alphabetically the commodities to the table in paragraph (a).

■ b. Add footnote 1 to the table in paragraph (a).

The additions read as follows:

**§ 180.657 Metaflumizone; tolerances for residues.**

(a) *General.* * * *

| Commodity | Parts per million |
|---|---|
| * * * * * | |
| Eggplant [1] | 1.5 |
| * * * * * | |
| Pepper [1] | 1.5 |
| Tomato [1] | 0.60 |
| Tomato, paste [1] | 1.2 |

[1] There are no U.S. registrations as of April 4, 2014.

* * * * *

[FR Doc. 2014–07559 Filed 4–3–14; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

**[EPA–HQ–OPP–2012–0164; FRL–9903–11]**

### Proquinazid; Pesticide Tolerances

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of proquinazid in or on grape and raisin. DuPont Crop Protection requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective April 4, 2014. Objections and requests for hearings must be received on or before June 3, 2014, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0164, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West

Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** Lois Rossi, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### *A. Does this action apply to me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

### *B. How can I get electronic access to other related information?*

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

### *C. How can I file an objection or hearing request?*

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2012–0164 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before June 3, 2014. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2012–0164, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

## II. Summary of Petitioned-For Tolerance

In the **Federal Register** of May 2, 2012 (77 FR 25954) (FRL–9346–1), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 1E7972) by DuPont Crop Protection, Stine Haskell Research Center, P.O. Box 30, Newark, DE 19714–0030. The petition requested that 40 CFR 180.674 be amended by establishing tolerances for residues of the fungicide proquinazid, 6-Iodo-2-propoxy-3-propyl-3H-quinazolin-4-one, in or on imported commodities to include grape at 0.5 parts per million (ppm) and raisin at 1.0 ppm. That document referenced a summary of the petition prepared by DuPont Crop Protection., the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has changed one of the requested commodity names from raisin; to grape, raisin; and added a significant figure to the numerical grape tolerance. The reasons for these changes are explained in Unit IV.C.

## III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for proquinazid including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with proquinazid follows.

### *A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Proquinazid has no significant acute toxicity via the oral, dermal, or inhalation routes of exposure. It is not an eye or skin irritant and does not cause skin sensitization. Based on the results of a 28-day dermal study in rats (as well as the dermal lethal dose (LD) study), proquinazid is poorly absorbed through the skin.

The liver and thyroid are the primary target organs for proquinazid. In rodents, body weight/body weight gain reductions, increased liver and thyroid organ weights, hypertrophy/hyperplasia, liver enzyme induction, and thyroid hormone changes were seen across varying durations and routes of exposure in rodents but not in dogs. In the 90-day oral rat study, the low dose effects of proquinazid are characterized primarily by altered thyroid hormones and associated follicular cell hypertrophy in the thyroid. Decrements in body weight and nutritional parameters, as well as histopathological changes in the liver (including hypertrophy) were observed at higher doses. In a 28-day oral rat study, hypertrophy of the thyroid and liver was completely reversible after a 6 week recovery period. In chronic rodent studies, non-neoplastic effects in both mice and rats included thyroid follicular hyperplasia and hypertrophy, with associated thyroid hormone changes (only investigated in rats), and some marked hepatic lesions, i.e., necrosis and hyperplasia (including oval cell hyperplasia in rats). In addition, chronic exposure in rats led to increases in the incidence of liver and thyroid tumors. The mode of action for the thyroid tumors in rats involves early changes in liver enzyme regulation that lead to dis-regulation of thyroid hormone homeostasis thyroid follicular hypertrophy/hyperplasia, and thyroid follicular adenoma formation. Mode of action data were submitted on the thyroid follicular cell tumors observed in male rats and the cholangiocarcinomas observed in female rats. The hypothesized mode of action (i.e., non-genotoxic) for each tumor type (i.e, the thyroid and cholangiocarcinoma) was supported by adequate studies that clearly identified the sequence of key events, dose-response concordance, and temporal relationship to the tumor types. No treatment-related tumors were observed in male or female mice. The overall weight-of-evidence was considered sufficient to demonstrate that proquinazid thyroid follicular tumors are the result of an anti-thyroidal mode of action and that a carcinogenic response would not be expected at doses below the threshold for changes in liver enzyme regulation leading to dis-regulation of thyroid hormone homeostasis. The data also shows that rats are substantially more sensitive than humans to the development of thyroid follicular cell tumors in response to thyroid hormone imbalance. Proquinazid induced cholangiocarcinomas in female rats only at doses that produced marked liver toxicity and oval cell hyperplasia microscopically. In contrast, in both male and female rats, doses that produced less severe or no hepatotoxicity or oval cell proliferation did not produce chlolangiocarcinomas. Therefore, at high enough doses, proquinazid can cause these biochemical and histopathological effects in livers of rodents but is unlikely to be carcinogenic at doses below those causing these changes. In contrast, in both male and female rats, doses that produced less severe or no hepatoxicity or oval cell proliferation did not produce cholangiocarcinomas. Therefore, at high enough doses, proquinazid can cause these biochemical and histopathological effects in livers of rodents but is unlikely to be carcinogenic at doses below those causing these changes. Therefore, the Agency determined that quantification of risk using a non-linear approach (i.e., reference dose (RfD) will adequately protect for all chronic toxicity, including carcinogenicity, that could result from exposure to proquinazid.

There is no mutagenicity concerns from *in vivo* or *in vitro* genetic toxicity assays. Proquinazid was not found to be immunotoxic. No evidence of increased quantitative or qualitative susceptibility was seen following *in utero* exposure to proquinazid with rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study. The 2-generation rat reproduction study resulted in no effects on reproduction or fertility. The offspring effects (decreases in $F_1$ pup weight during lactation) occurred at the same dose which caused parental effects (thyroid hypertrophy, reduced body weight gain, and food consumption). Evidence of developmental delays were observed in developmental toxicity studies in rabbits and rats and were characterized by reduced fetal weight and an increased incidence of retarded ossification and patent ductus arteriosus, respectively. These developmental effects occurred in the presence of maternal toxicity and were considered of equal toxicity.

There is limited evidence for neurotoxicity following oral exposures to proquinazid. Following a single exposure, evidence for neurotoxicity at the lowest observed adverse effect level (LOAEL) was limited to decreased motor activity in both sexes with no behavioral or neuropathology changes. At doses above the study LOAEL other effects including decreased grip strength and food splay were observed. Following repeated (dietary) exposures, there were no treatment-related clinical signs of neurotoxicity, behavioral changes or neuropathology. Specific information on the studies received and the nature of the adverse effects caused by proquinazid as well as the no observed adverse effect level (NOAEL) and the LOAEL from the toxicity studies can be found at *http://www.regulations.gov* in document ''Proquinazid: Human Health Risk Assessment for the Tolerance on Imported Grapes'' dated September 2013 at pages 23 through 35 in docket ID number EPA–HQ–OPP–2012–0164.

*B. Toxicological Points of Departure/Levels of Concern*

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a RfD—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for proquinazid used for human risk assessment is shown in Table 1. of this unit. Because only oral exposure are anticipated for imported grapes, no other endpoints are relevant such as dermal and inhalation exposures.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR PROQUINAZID FOR USE IN HUMAN HEALTH RISK ASSESSMENT

| Exposure/scenario | Point of departure and uncertainty/safety factors | RfD, PAD, LOC for risk assessment | Study and toxicological effects |
|---|---|---|---|
| Acute dietary (General population including infants and children). | NOAEL = 50 mg/kg/bw $UF_A$ = 10x.<br>$UF_H$ = 10x<br>FQPA SF = 10x<br>$UF_{DB}$ | Acute RfD = aPAD = 0.050 mg/kg/bw. | Acute Neurotoxicity Study-Rat.<br>LOAEL = 100 mg/kg/bw based on decreased motor activity seen in females on day 1. |
| Chronic dietary (All populations) | NOAEL= 1.2 mg/kg/day.<br>$UF_A$ = 13x<br>$UF_H$ = 10x<br>FQPA SF = 10x<br>$UF_{DB}$ | Chronic RfD = cPAD = 0.004 mg/kg/day. | Chronic Toxicity/Carcinogenicity Study-Rat.<br>LOAEL = 12 mg/kg/day based on increases in non-neoplastic liver lesions and changes in thyroid hormones and thyroid pathology. |
| Cancer (Oral, dermal, inhalation). | A non linear approach (i.e., RfD will adequately protect for all chronic toxicity, including carcinogenicity, that could result from exposure to proquinazid. The cPAD for proquinazid will protect for carcinogenic effects because it is below the level that caused changes in liver enzyme regulation and liver toxicity. | | |

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest observed adverse effect level. mg/kg/bw = milligram/kilogram/body weight. NOAEL = no observed adverse effect level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. $UF_A$ = extrapolation from animal to human (interspecies). $UF_{DB}$ = to account for the absence of data or other data deficiency. $UF_H$ = potential variation in sensitivity among members of the human population (intraspecies).

*C. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to proquinazid, EPA considered exposure under the petitioned-for tolerances as well as all existing proquinazid tolerances in 40 CFR 180.674. EPA assessed dietary exposures from proquinazid in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for proquinazid. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWIA). As to residue levels in food, EPA used tolerance level residues and 100% percent crop treated (PCT). Default processing factors were used for grape juice. The Agency considers these to be highly conservative assessments.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 2003–2008 NHANES/WWEIA. As to residue levels in food, EPA used tolerance level residues and 100% PCT.

iii. *Cancer.* Quantification of risk using a non-linear approach (i.e., RfD will adequately protect for all chronic toxicity, including carcinogenicity, which could result from exposure to proquinazid. Cancer risk was assessed using the same exposure estimates as discussed in Unit III.C.1.ii., *chronic exposure.*

iv. *Anticipated residue and PCT information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for proquinazid. Tolerance level residues and/or 100% CT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* There is no drinking water exposure in the U.S. associated with the establishment of an import tolerance.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Proquinazid is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found proquinazid to share a common mechanism of toxicity with any other substances, and proquinazid does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that proquinazid does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

*D. Safety Factor for Infants and Children*

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* No evidence of increased quantitative or qualitative susceptibility was seen following *in utero* exposure to proquinazid with rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study. The 2-generation rat reproduction study resulted in no effects on reproduction or fertility. The

offspring effects (decreases in $F_1$ pup weight during lactation) occurred at the same dose which caused parental effects (thyroid hypertrophy, reduced body weight gain, and food consumption). Evidence of developmental delays were observed in developmental toxicity studies in rabbits and rats were characterized by reduced fetal weight and an increased incidence retarded ossification and paten ductus arteriosus, respectively. These developmental effects occurred in the presence of maternal toxicity. For the rats, the developmental effects were seen in the presence of clear maternal toxicity, including a marked reduction in body weight gain after adjustment for uterine contents and were considered to be of equal severity.

3. *Conclusion.* In determining whether there are reliable data to amend or remove the presumptive 10X FQPA safety factor, EPA considered the following factors:

i. The toxicity database for proquinazid required by 40 CFR Part 158 is complete. However, there remains some uncertainty regarding the potential for proquinazid effects on the thyroid in the young. Effects on the thyroid (manifested as changes in hormones, weight, and histopathology) following proquinazid exposure were consistently observed in adult animals (rats) following subchronic and chronic exposures. Thyroid effects, however, were not assessed in studies involving neo- or postnatal animals, and EPA is lacking data showing the comparative effect of proquinazid on the thyroid in adult and neo- and postnatal animals.

ii. There is only limited evidence that proquinazid is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity. There is limited evidence for neurotoxicity following oral exposures to proquinazid. Following a single exposure, evidence for neurotoxicity at the LOAEL was limited to decreased motor activity in both sexes with no behavioral or neuropathology changes. At doses above the study LOAEL other effects including decreased grip strength and foot splay were observed. Following repeated (dietary) exposures, there were no treatment-related clinical signs of neurotoxicity, behavioral changes, or neuropathology.

iii. As discussed in Unit III.D.2., there is no evidence that proquinazid results in increased susceptibility with *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100% CT and tolerance-level residues. Drinking water is not a factor because this is an import tolerance assessment. These assessments will not underestimate the exposure and risks posed by proquinazid.

Despite the lack of any indication of sensitivity in the young and the very conservative exposure assessment, EPA has determined that it lacks reliable data to choose a FQPA safety factor other than the default value of 10X given (1) the absence of data on thyroid effects on the young, including comparative thyroid data on adults and the young, and (2) the fact that thyroid effects were the most sensitive effect seen in adult animals. At the same time, after considering all of the data on proquinazid toxicity and exposure, EPA has also determined that application of a FQPA safety factor of 10X, in conjunction with inter- and intraspecies safety factors, will result in a risk assessment that protects the safety of infants and children. Although there is some uncertainty as to whether the young might have greater sensitivity to proquinazid's thyroid effects due to the absence of comparative thyroid data, two developmental studies and a reproduction study have otherwise shown no indication of sensitivity in the young to proquinazid. Additionally, the exposure assessment provides an extra margin of safety given that it is based on the conservative assumption that all grapes, and all food products derived from grapes (e.g., raisins, grape juice, wine), consumed in the United States bear residues of proquinazid at the appropriate tolerance level. This assumption is particularly conservative here because proquinazid is not registered for use in the United States. Taking into account all of these considerations, EPA concludes that no safety factor in addition to the inter- and intraspecies factors, and the default FQPA safety factor is needed to protect the safety of infants and children.

### *E. Aggregate Risks and Determination of Safety*

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute dietary exposure from food to proquinazid will occupy 18% of the aPAD for children 1–2 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to proquinazid from food will utilize 47% of the cPAD for children 1–2 years old the population group receiving the greatest exposure. There are no residential uses for proquinazid. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of proquinazid is not expected.

3. *Aggregate cancer risk for U.S. population.* The cPAD of 0.004 mg/kg/day will be protective of both non-cancer and cancer effects, including rat tumors (liver, thyroid, and cholangiocarcinomas). As discussed in Unit III.E., aggregate exposure to proquinazid is below the cPAD.

4. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to proquinazid residues.

## IV. Other Considerations

### *A. Analytical Enforcement Methodology*

Adequate enforcement methodology (gas chromatography with electron capture detection) is available to enforce the proposed tolerances for residues of proquinazid on grape commodities.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

### *B. International Residue Limits*

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health

Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for proquinazid. However, the tolerances established in this rule are harmonized with Canadian MRLs.

*C. Revisions to Petitioned-For Tolerances*

The Agency is changing the proposed commodity definition for raisins from raisin to grape, raisin. The change in the commodity definition is to make the tolerance consistent with Agency naming-conventions for commodities and crop groups. No changes are recommended for the proposed tolerance levels, but the grape tolerance is being revised from 0.5 to 0.50 to correct the number of significant figures.

## V. Conclusion

Therefore, tolerances are established for residues of proquinazid in or on grape at 0.50 ppm and grape, raisin 1.0 ppm.

## VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

## VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

## List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 25, 2014.

**Marty Marnell,**

*Acting Director, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Add § 180.674 to read as follows:

### § 180.674 Proquinazid; tolerances for residues.

(a) *General.* Tolerances are established for residues of the fungicide, proquinazid, including its metabolites and degradates, in or on the commodities listed in the following table. Compliance with the tolerance levels specified in the following table is to be determined by measuring only proquinazid, [6-Iodo-2-propoxy-3-propyl-3H-quinazolin-4-one), in or on the following commodities:

| Commodity | Parts per million |
|---|---|
| Grape [1] | 0.50 |
| Grape, raisin [1] | 1.0 |

[1] No U.S. registrations for Proquinazid.

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 2014–07563 Filed 4–3–14; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[EPA–HQ–OPP–2011–0110; FRL–9400–3]**

## Imazapic; Pesticide Tolerances

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a tolerance for residues of imazapic in or on soybean, seed. BASF Corporation requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective April 4, 2014. Objections and requests for hearings must be received on or before June 3, 2014, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2011–0110, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** Lois Rossi, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### *A. Does this action apply to me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

### *B. How can I get electronic access to other related information?*

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

### *C. How can I file an objection or hearing request?*

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2011–0110 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before June 3, 2014. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2011–0110, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

## II. Summary of Petitioned-For Tolerance

In the **Federal Register** of March 29, 2011 (76 FR 17374) (FRL–8867–4), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 0E7794) by BASF Corporation, 26 Davis Drive, Research Triangle Park, NC 27709. The petition requested that 40 CFR 180.490 be amended by establishing tolerances for residues of the herbicide imazapic 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-methyl-3-pyridinecarboxylic acid in or on soybean at 0.50 parts per million (ppm). That document referenced a summary of the petition prepared by BASF Corporation, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has revised the proposed tolerance level and the commodity definition. The reasons for these changes are explained in Unit IV.C.

## III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for imazapic including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with imazapic follows.

In the **Federal Register** of August 16, 2013 (78 FR 49927) (FRL–9394–8), EPA issued a final rule establishing a tolerance for residues of imazapic in or on sugarcane, cane. Refer to Unit III of that **Federal Register** document, available under docket ID number EPA–HQ–OPP–2012–0384 at *http://www.regulations.gov,* for a detailed discussion of the aggregate risk assessment and determination of safety. The risk assessment discussed in the preamble to the published August 16, 2013 final rule considered exposure under the petitioned-for tolerances for both sugarcane, cane; and soybean, seed, as well as all existing imazapic

tolerances in 40 CFR 180.490. That risk assessment document ''Imazapic. Human-Health Risk Assessment. Petition for Tolerances for Use on Soybeans and Sugarcane Without U.S. Registration.'' is available under docket ID numbers EPA–HQ–OPP–2011–0110 and EPA–HQ–OPP–2012–0384 at *http://www.regulations.gov.* No new toxicological data or other information that could change the risk assessment for imazapic has been submitted since EPA established the sugarcane regulation.

Therefore, based on the risk assessment and the discussion in the preamble to the published August 16, 2013 final rule, EPA concludes that there is a reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to imazapic residues.

## IV. Other Considerations

### *A. Analytical Enforcement Methodology*

Adequate enforcement methodology (Method SOP–PA.0288, a liquid chromatography with tandem mass spectroscopy (LC–MS/MS)) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

### *B. International Residue Limits*

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level. The Codex has not established a MRL for imazapic on soybean.

### *C. Revisions to Petitioned-For Tolerances*

EPA revised the proposed commodity definition of ''soybean (imidazolinone-tolerant)'' to reflect the correct terminology of ''soybean, seed.'' The proposed tolerance level of 0.50 ppm is revised to 0.40 ppm based on analysis of the residue field trial data using the Organization for the Economical Cooperation and Development's tolerance calculation procedures. The revised tolerance level was used for the exposure assessment for this tolerance action.

## V. Conclusion

Therefore, a tolerance is established for residues of imazapic 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-methyl-3-pyridinecarboxylic acid, including its metabolites, in or on soybean, seed at 0.40 ppm.

## VI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

## VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

## List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 27, 2014.

**Lois Rossi,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.490, add alphabetically the following commodity, and footnote 1, to the table in paragraph (a)(1) to read as follows:

**§ 180.490 Imazapic; tolerances for residues.**

(a) *General.* (1) * * *

| Commodity | Parts per million |
|---|---|
| * * * * * | |
| Soybean, seed [1] | 0.40 |
| * * * * * | |

[1] There are no US registrations as of April 4, 2014.

* * * * *

[FR Doc. 2014–07585 Filed 4–3–14; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

**[EPA–HQ–OPP–2014–0143; FRL–9909–02]**

## Thiram; Time-Limited Pesticide Tolerances

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for residues of thiram in or on banana. Taminco US, Inc. requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA). The tolerances expire on March 31, 2015.

**DATES:** This regulation is effective April 4, 2014. Objections and requests for hearings must be received on or before June 3, 2014, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0143, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** Lois Rossi, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; *email address: RDFRNotices@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this action apply to me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

*B. How can I get electronic access to other related information?*

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

*C. How can I file an objection or hearing request?*

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2014–0143 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before June 3, 2014. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2014–0143, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

### II. Summary of Petitioned-For Tolerances

In the **Federal Register** of February 25, 2014 (79 FR 10458) (FRL–9906–77), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 4E8243) by Taminco US, Inc., Two Windsor Plaza, Suite 411, Allentown, PA 18195. The petition requested that 40 CFR 180.132 be amended by extending the expiration date on the tolerance for residues of the fungicide thiram in or on banana at 0.8 parts per million (ppm) from March 31, 2014, to March 31, 2015. That document referenced a summary of the petition prepared by Taminco US, Inc., the registrant, which is available to the public in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing. These tolerances expire on March 31, 2015.

### III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the

pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for thiram including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with thiram follows.

*A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Thiram is a dimethyl dithiocarbamate fungicide. Thiram has been shown to cause neurotoxicity following acute and subchronic exposures. In the acute and subchronic neurotoxicity studies submitted, neurotoxicity is characterized as lethargy, reduced and/or tail pinch response, changes in the functional-observation battery (FOB) parameters, increased hyperactivity, changes in motor activity, and increased occurrences of rearing events. No treatment-related changes were observed in brain weights or in the histopathology of the nervous system. In a non-guideline study published in the open literature, chronic feeding of thiram to rats caused neurotoxicity, with onset of ataxia in some animals 5–19 months after beginning of treatment. However, no evidence of neurotoxicity was seen following chronic exposures in mice or rats in guideline studies submitted to the Agency. The chronic toxicity profile for thiram indicates that the liver, blood, and urinary system are the target organs for this chemical in mice, rats, and dogs. There is no evidence for increased susceptibility following *in utero* exposures to rats or rabbits and following pre- and post-natal exposures to rats for 2 generations. There is evidence of quantitative susceptibility in the developmental neurotoxicity (DNT) study. However, there is low concern for the increased susceptibility seen in the DNT study since the dose response is well defined with a clear NOAEL and this endpoint is used for assessing the acute dietary risk for the most sensitive population. Thiram is classified as ''not likely to be carcinogenic to humans'' based on lack of evidence for carcinogenicity in mice or rats. There are no mutagenic/genotoxic concerns with thiram. The available toxicological database for thiram suggests that this chemical has a low to moderate acute-toxicity profile.

Specific information on the studies received and the nature of the toxic effects caused by thiram as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document ''Thiram. Update to the Aggregate Risk Assessment to Support the Requested PHI Reduction and Increased Tolerance Request on Strawberry,'' p. 9 in docket ID number EPA–HQ–OPP–2012– 0925.

*B. Toxicological Points of Departure/Levels of Concern*

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for thiram used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of February 12, 2014 (79 FR 8295) (FRL–9904–22).

*C. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to thiram, EPA considered exposure from the petitioned-for tolerances as well as all existing thiram tolerances in 40 CFR 180.132. EPA assessed dietary exposures from thiram in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

A partially refined probabilistic acute dietary-exposure assessment was performed using 100 percent crop treated (PCT), tolerance, the highest residue found during field-trials, distributions of field trial residues, and empirical processing factors.

ii. *Chronic exposure.* Tolerances level residues for banana and average field trial residues for apples, peaches and strawberries along with 100 PCT were used for the chronic dietary exposure analysis for all crops. Empirical processing factors were also used.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has classified thiram as ''Not Likely to be Carcinogenic to Humans,'' therefore, a dietary exposure assessment for the purpose of assessing cancer risk is not needed.

iv. *Anticipated residue information.* EPA did not use PCT information in the dietary assessment for thiram. The acute used field trial residues for the majority of commodities. The chronic dietary used average field trial residues along with tolerance level residues. In addition, 100 PCT were assumed for all food commodities. Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data

call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for thiram in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of thiram. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking water concentrations (EDWCs) of thiram for acute exposures are 0.0478 parts per billion (ppb) and 0.0025 ppb for chronic exposures (for non-cancer assessments) for surface water. Ground water sources were not included (for acute or chronic exposures), as the EDWCs for ground water are minimal in comparison to those for surface water. Surface water EDWCs were incorporated in DEEM–FCID into the food categories ''water, direct, all sources'' and ''water, indirect, all sources'' for the dietary assessments.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Thiram is not available for sale or use by homeowner applicators; therefore, there are no residential handler exposure scenarios. However, there is potential for residential post-application dermal exposure from treated golf course greens and tees. Residential exposures resulting from dermal contact with thiram-treated turf were assessed for children 6 to <11 years old, children 11 to <16 years old, and adults as described in document ''Thiram. Update to the Aggregate Risk Assessment to Support the Requested PHI Reduction and Increased Tolerance Request on Strawberry,'' p. 8299 in docket ID number EPA–HQ–OPP–2012–0925.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike the *N*-methyl carbamate pesticides, EPA has not found thiram (a dithiocarbamate) to share a common mechanism of toxicity with any other substances, and thiram does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that thiram does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

### *D. Safety Factor for Infants and Children*

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There was no evidence of increased susceptibility following *in utero* exposure to rats or rabbits or following pre-and post natal exposures to rats. There is evidence of quantitative susceptibility in the DNT study. Offspring effects (increased locomotor activity in females on PND 17) occurred at a lower dose than maternal effects (increased number of rearing events and elevated incidences of hyperactivity in females at weeks 8 and 13). There is low concern for the enhanced susceptibility seen in the DNT study because:

i. Clear NOAELs/LOAELs were established for the offspring effects.

ii. The dose-response is well defined.

iii. The behavioral effect of concern were observed only in females on one evaluation time period. and

iv. The dose/endpoint is used for acute dietary risk for the most sensitive population subgroup (females 13–49 years old). Consequently, there are no residual uncertainties for pre- and post-natal toxicity.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for thiram is complete with acceptable neurotoxicity, developmental, and reproductive toxicity studies.

ii. As explained in this unit, there are no residual uncertainties for pre- and post-natal toxicity.

iii. There are no residual uncertainties identified in the exposure databases. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to thiram in drinking water. In addition, the acute dietary exposure analysis used FDA apple monitoring data and field trial data along with the maximum PCT. The chronic dietary exposure analysis used tolerance level residues except for apple along with the average PCT. In addition, washing studies were incorporated into the dietary analyses since thiram is not a systemic pesticide and will wash off during normal washing procedures. These assessments will not underestimate the exposure and risks posed by thiram. These assessments will not underestimate the exposure and risks posed by thiram.

### *E. Aggregate Risks and Determination of Safety*

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. Using DEEM–FCID, acute dietary exposure at the 95th exposure percentile is estimated at 0.012053 mg/kg bw/day for the general U.S. population (1.9% of the aPAD) and 0.008637 mg/kg bw/day (62% of the aPAD) for females 13–49 years old, the population subgroup with the highest % aPAD dietary exposure to thiram.

2. *Chronic risk.* The chronic aggregate risk assessment takes into account exposure estimates from dietary consumption of thiram (food and drinking water). Dietary risk estimates

were determined considering exposures from food and drinking water using EDWCs for surface water sources. Using the DEEM–FCID software, dietary exposure is estimated at 0.002257 mg/kg bw/day for the general U.S. population (15% of the cPAD) and 0.011943 mg/kg bw/day (80% of the cPAD) for children 1–2 years old, the population subgroup with the highest estimated chronic dietary exposure to thiram.

3. *Short-term and intermediate-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

In aggregating short- and intermediate-term risk, the Agency routinely combines background chronic dietary exposure (food + water) with short/intermediate-term residential exposure (dermal only). The combined exposure may then be used to calculate an MOE for aggregate risk. Using the golfer scenario for adult males, adult females, and children >6 years old, combined with the applicable subpopulation with the greatest dietary exposure, the total short/intermediate-term food and residential aggregate MOEs are 600, 600, and 370, respectively. As these MOEs are greater than 100, the short- and intermediate-term aggregate risks do not exceed the Agency's LOC.

4. *Aggregate cancer risk for U.S. population.* Thiram is classified as ''Not Likely to be Carcinogenic to Humans'' based on lack of evidence for carcinogenicity in mice or rats; therefore, thiram is not expected to pose a cancer risk.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to thiram residues.

## IV. Other Considerations

### *A. Analytical Enforcement Methodology*

Adequate enforcement methodology (colorimetric analytical method) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

### *B. International Residue Limits*

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for thiram in or on banana.

## V. Conclusion

Therefore, the expiration date on time-limited tolerance for residues of thiram in or on banana at 0.8 ppm is being extended until March 31, 2015. An extension of the time limited tolerance has been imposed to allow the Agency time to review additional residue data submitted in consideration of a permanent tolerance for banana.

## VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children From Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

## VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

## List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 28, 2014.

**Lois Rossi,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.132, in the table in paragraph (a), in the entry for ''Banana'', revise the Expiration/revocation date, ''3/31/14'' to read ''3/31/15'' to read as follows:

**§ 180.132 Thiram; tolerances for residues.**

(a) * * *

| Commodity | Parts per million | Expiration/ revocation date |
|---|---|---|
| * * * * * | | |
| Banana [1] ..... * * * | | 3/31/15 |
| * * * * * | | |

[1] No U.S. registrations as of September 23, 2009.

* * * * *

[FR Doc. 2014–07556 Filed 4–3–14; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 799

**[EPA–HQ–OPPT–2012–0209; FRL–9907–36]**

### Final Enforceable Consent Agreement and Testing Consent Order for Octamethylcyclotetrasiloxane (D4); Export Notification

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; enforceable consent agreement and testing consent order.

**SUMMARY:** Under the Toxic Substances Control Act (TSCA), EPA has issued a testing consent order (Order) that incorporates an enforceable consent agreement (ECA) with Dow Corning Corporation, Evonik Corporation, Momentive Performance Materials USA Inc., Shin-Etsu Silicones of America, Inc., and Wacker Chemical Corporation (the Companies). The Companies have agreed to certain environmental testing that will be used by EPA to characterize sources and pathways of release of octamethylcyclotetrasiloxane (D4) to the environment and resulting exposures of aquatic and sediment dwelling organisms to D4, contributing to the Agency's efforts to understand potential environmental effects of D4. This document revises the listing for D4 in the table of testing consent orders for substances and mixtures with Chemical Abstract Service (CAS) Registry Numbers. This document announces the ECA and the Order that incorporates the ECA for this testing, and summarizes the terms of the ECA. As a result of this action, exporters of D4, CAS No. 556–67–2, including persons who do not sign the ECA, are subject to TSCA export notification requirements.

**DATES:** The effective date of the ECA, the Order that incorporates the ECA, and this action is April 4, 2014.

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2012–0209, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** *For information on the ECA, contact:* Mark Seltzer, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–2901; email address: *seltzer.mark@epa.gov.*

*For general information contact:* The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Does this action apply to me?

This action is directed to the public in general. The requirements in the ECA and the Order that incorporates the ECA only apply to those companies that are specifically named in the ECA. As of April 4, 2014 any person who exports or intends to export any chemical that is the subject of the ECA and the Order that incorporates the ECA is subject to the export notification requirements of TSCA section 12(b) (see 40 CFR part 707, subpart D, and Unit IV.B.). Although other types of entities could also be affected, most chemical manufacturers are usually identified under North American Industrial Classification System (NAICS) code 325 (Chemical manufacturing).

### II. Background

*A. What is Octamethylcyclotetrasiloxane (D4)?*

D4 is used as an intermediate for silicone copolymers and other chemicals. D4 is also used in industrial processing applications as a solvent (which becomes part of a product formulation or mixture), finishing agent, and an adhesive and sealant chemical (Ref. 1). It is also used for both consumer and commercial purposes in paints and coatings, and plastic and rubber products (Ref. 1) and has consumer uses in polishes, sanitation, soaps, detergents, adhesives, and sealants (Ref. 2).

*B. Why does EPA need environmental effects data on D4?*

D4 persists in sediment and bioaccumulates in aquatic species. Data show D4 to be toxic to aquatic and sediment-dwelling species. EPA has concerns regarding the environmental effects of D4. Environmental testing will help develop a better understanding of the potential effects of this chemical in the environment.

### III. ECA Development and Conclusion

*A. How is EPA going to obtain environmental testing on D4?*

EPA initiated steps and agreed to enter into this ECA with the Companies. On February 26, 2014, EPA received the ECA signed by the Companies, and on March 28, 2014, EPA signed the ECA and the Order that incorporates the ECA. The effective date of the ECA and the Order that incorporates the ECA is April 4, 2014.

EPA uses ECAs to accomplish testing of chemicals for public health and environmental effects where a consensus exists concerning the need for and scope of testing (40 CFR 790.1(c)). The procedures for ECA negotiations and the factors for determining whether a consensus exists are described at 40 CFR 790.22.

*B. What is the subject of the ECA and order incorporating the ECA?*

As specified in the ECA, the purpose of the testing program is to conduct environmental testing to help in characterizing sources and pathways of release of D4 to the environment and

resulting exposures of aquatic and sediment dwelling organisms to D4.

The signatory companies shall submit a draft Study Plan and Quality Assurance Project Plan (QAPP) to carry out the environmental testing program set forth in Section VII. and Appendices 1–8 of the ECA. EPA will review of the signatory companies' draft submissions and, if consistent with Section IX.A. of the ECA, shall approve the submissions. The signatory companies shall conduct environmental testing in accordance with the Final Study Plan and Final QAPP approved by EPA. Following completion of environmental testing, the signatory companies shall submit a final report to EPA.

*C. What testing does the ECA for D4 require?*

The ECA requires testing for the presence of D4 around specified wastewater treatment plants (WWTP) at the method detection limits specified in the test standards described in Appendices 4–8 of the ECA.

Environmental testing will be conducted at direct discharge sites WWTPs (Appendix 1 of the ECA). Direct discharge sites are D4 manufacturing and/or processing sites that discharge process wastewater into the environment after on-site wastewater treatment. The concentration of D4 in the WWTP effluent (Appendix 4 of the ECA), and surface water (Appendix 5 of the ECA), sediment (Appendix 7 of the ECA), and biota (benthic organisms and two species of fish as noted in Appendix 8 of the ECA) in the WWTP receiving stream will be measured.

Environmental testing will be conducted at WWTPs serving indirect discharge sites (Appendix 2 of the ECA). Indirect discharge sites are D4 processing sites (including product formulation sites) that discharge process wastewater to offsite WWTPs. The concentration of D4 in the WWTP influent (Appendix 4 of the ECA), effluent (Appendix 4 of the ECA), and biosolids (Appendix 6 of the ECA), along with surface water (Appendix 5 of the ECA), sediment (Appendix 7 of the ECA), and biota (benthic organisms and two species of fish as noted in Appendix 8 of the ECA) in the WWTP receiving stream will be measured.

Primarily non-industrial WWTPs receive less than 15% of wastewater from industrial facilities and, preferably, no wastewater from D4 manufacturing or processing (including product formulation) sites (Appendix 3 of the ECA). Environmental testing will be conducted at WWTPs serving primarily non-industrial wastewater treatment sites. The concentration of D4 in the WWTP influent (Appendix 4 of the ECA) and effluent (Appendix 4 of the ECA), and biosolids (Appendix 6 of the ECA), along with surface water (Appendix 5 of the ECA), sediment (Appendix 7 of the ECA), and biota (benthic organisms and two species of fish as noted in Appendix 8 of the ECA) in the WWTP receiving stream will be measured.

TABLE 1—REQUIRED TESTING, TEST STANDARDS, REPORTING REQUIREMENTS: PHASES OF THE TESTING PROGRAM FOR D4

| Event | Phase | Enforceable consent agreement (ECA) section and terms | Deadline (days)[1] |
|---|---|---|---|
| 1 | Effective date | XXII. Date of **Federal Register** document publication | 0 |
| 2 | Submission of Study Plan to EPA. | IX.A. No more than 120 days after effective date and at least 45 days prior to testing initiation. | 120 |
| 3 | Submission of Quality Assurance Project Plan (QAPP) to EPA. | IX.A. No more than 180 days after effective date and at least 45 days prior to testing initiation (EPA Requirements for Quality Assurance Project Plans (QA/R5)) (Ref. 3). | 180 |
| 6 | Study Plan/QAPP Approval | IX.A. Study plan/QAPP approval at same time, within 60 days of receipt of QAPP by EPA. | 240 |
| 7 | Start of testing | IX.B. Testing start no more than 60 days after study plan/QAPP approval; specific tests to be conducted at each site type as described in Unit III.C. | 300 |
| 10 | End of testing | IX.B. Testing completed within 360 days of testing start | 660 |
| 12 | Environmental Monitoring Report | IX.D. Final report no later than 150 days following completion of testing | 810 |

[1] Number of days, starting with the day following the completion of the previous ECA phase.

*D. What are the uses for the test data to be developed under the ECA?*

The final report is intended to be released to the public, as described at Section IX.D. of the ECA. These data will be used to develop D4 environmental exposure and risk assessments. In addition, the data could be used by other Federal agencies (e.g., the Agency for Toxic Substances and Disease Registry (ATSDR), the Consumer Product Safety Commission (CPSC), and the Food and Drug Administration (FDA)) in assessing chemical risks and in taking appropriate actions within their programs.

## IV. Other Impacts of the ECA

*A. What if EPA should require additional environmental testing on D4?*

If EPA decides in the future that it requires additional environmental testing data, the Agency has authority to re-open the testing consent order process according to 40 CFR 790.68.

*B. How does the order affect TSCA export notification?*

As of the effective date of the ECA and the Order that incorporates the ECA under TSCA section 4 (i.e., the date of publication of this document in the **Federal Register**) any of the Companies, as well as any other person, who exports or intends to export any D4 that is the subject of this ECA and Order that incorporates the ECA, in any form, are subject to the export notification requirements of TSCA section 12(b). Procedures related to export notification are described in 40 CFR part 707, subpart D. EPA maintains lists of all chemical substances and mixtures with CAS numbers (40 CFR 799.5000) that are subject to testing consent orders. This document revises the listing for D4, CAS. No. 556–67–2, that is the subject of this ECA and Order that incorporates the ECA in the list at 40 CFR 799.5000.

Section 553(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment.

EPA has determined that there is good cause for adding this chemical to the list at 40 CFR 799.5000 without prior proposal and opportunity for comment because such notice and opportunity for comment is unnecessary since the export notification requirements are imposed by statute. Section 12(b) of TSCA requires any person who exports or intends to export to a foreign country a chemical substance or mixture for which the submission of data is required under TSCA section 4 to submit a notification of the export or intended export to EPA. TSCA section 12(b) operates regardless of whether this chemical is added to the list at 40 CFR 799.5000; the inclusion of this chemical in the list promotes awareness of that operation of statutory law. Therefore, EPA has determined that notice and an opportunity for comment on whether this chemical is added to the list at 40 CFR 799.5000 is unnecessary because the export notification requirements in TSCA section 12(b) would apply even if this chemical is not added to 40 CFR 799.5000.

*C. What are the economic implications of the ECA?*

Based on the economic analysis conducted for the ECA, the Agency expects the cost of the testing to be performed under this ECA to range from $1,000,000 to $1,200,000. The estimated total cost for industry to conduct the required testing under the ECA is $1,200,000, which is the upper end of the estimated cost range. EPA anticipates that the costs for testing under this ECA will have a low potential for adverse economic impact on the regulated community because the costs for testing will be shared across five companies that are signatories to the ECA and the Order that incorporates the ECA.

Export regulations promulgated pursuant to TSCA section 12(b)—40 CFR part 707, subpart D—require only a one-time notification to each foreign country of export for each chemical for which data are required to be developed under TSCA section 4. EPA prepared estimates of the cost and burden of the July 27, 1993, amendment to the rules implementing TSCA section 12(b) and included these in the Information Collection Request to support the rule most recently updated in 2012 (Ref. 4). EPA estimates that the average cost of preparing and submitting the TSCA section 12(b) notification for a submitter of any TSCA section12(b) notification is $79 when adjusted for inflation to 2012 dollars with an associated average burden of 1.3 hours (Ref. 5).

## V. References

As indicated under **ADDRESSES**, a docket has been established for this final rule under docket ID number EPA–HQ–OPPT–2012–0209. The following is a listing of the documents that are specifically referenced in this action. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. Chemical Data Reporting Database. 2012.

2. EPA. Inventory Update Reporting Database. 2006.

3. EPA. EPA Requirements for Quality Assurance Project Plans (QA/R5).

4. EPA. Export Notification Requirement; Change to Reporting Requirements; Final Rule. **Federal Register** (58 FR 40238, July 27, 1993.)

5. EPA. Estimates of Burden and Costs for the Siloxanes Enforceable Consent Agreement. 2014.

6. EPA. EPA ICR No.: 0795.14 Information Collection Request for Notification of Chemical Exports—TSCA Section 12(b) Supporting Statement for Request for OMB Review under the Paperwork Reduction Act, OMB Control Number 2070–0030. 2012.

## VI. Statutory and Executive Order Reviews

*A. Executive Order 12866*

This action announces an Order that incorporates an ECA between EPA and the Companies. Under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this action is not a ''regulatory action'' subject to review by the Office of Management and Budget (OMB).

*B. Paperwork Reduction Act (PRA)*

According to PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, an information collection request unless it displays a currently valid control number assigned by OMB. The OMB control numbers for the EPA's regulations in title 40 of the CFR are listed in 40 CFR part 9.

The information collection requirements related to the Order that incorporates the ECA have already been approved by OMB pursuant to PRA under OMB control number 2070–0033 (EPA ICR No. 1139.09). The one-time public burden for this collection of information is estimated to be approximately 200 hours per response (i.e., per company), or 1,000 hours total burden for the companies (Ref. 5). Under PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For this collection, it includes the time needed to review instructions; complete and review the collection of information; and transmit or otherwise disclose the information.

The information collection requirements related to export notification requirements under TSCA section 12(b), including those related to the ECA and the Order that incorporates the ECA, have already been approved by OMB pursuant to PRA under OMB control number 2070–0030 (EPA ICR No. 0795). The public reporting burden for this information collection is estimated to be 1.3 hours per response (Ref. 6).

*C. Regulatory Flexibility Act (RFA)*

Since the issuance of the ECA and the Order that incorporates the ECA, as well as the applicability of the export notification requirements of TSCA section 12(b) to chemicals addressed in the ECA and the Order that incorporates the ECA, do not require the issuance of a proposed rule, the requirements of RFA (5 U.S.C. 601 *et seq.*) do not apply.

*D. Unfunded Mandates Reform Act (UMRA)*

This action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of UMRA (2 U.S.C. 1501 *et seq.*). Therefore, this action is not subject to the requirements of UMRA.

*E. Executive Order 13132 and 13175*

This action is not expected to impact State or Tribal governments because these governments are not expected to export the chemicals covered by the ECA or the Order that incorporates the ECA. As such, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999). Nor will this action have Tribal implications because it does not significantly or uniquely affect the communities of Indian Tribal governments, or involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled

''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply.

*F. Executive Order 13045*

Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), does not apply to this action because this action is not designated as an ''economically significant'' regulatory action as defined by Executive Order 12866 (see Unit VI.A.), nor does this action establish an environmental standard that is intended to have a disproportionate effect on children. To the contrary, this action will provide data and information that EPA and others can use to assess the risks of these chemicals, including potential risks to sensitive subpopulations.

*G. Executive Order 13211*

This action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use.

*H. National Technology Transfer and Advancement Act (NTTAA)*

Section 12(d) of NTTAA (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The testing conducted under the ECA involves technical standards. The Agency conducted a search to identify potentially applicable voluntary consensus standards. No such standard was identified for environmental testing of D4 that is the subject of the ECA.

*I. Executive Order 12898*

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

**VII. Congressional Review Act**

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 799**

Environmental protection, Chemicals, D4, Exports, Hazardous substances, Health and safety, Laboratories, Octamethylcyclotetrasiloxane, Reporting and recordkeeping requirements, Siloxane.

Dated: March 28, 2014.

**James Jones,**

*Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 799—[AMENDED]

■ 1. The authority citation for part 799 continues to read as follows:

**Authority:** 15 U.S.C. 2603, 2611, 2625.

■ 2. In § 799.5000, revise the entry ''CAS Number 556–67–2'' to read as follows:

**§ 799.5000 Testing consent orders for substances and mixtures with Chemical Abstract Service Registry Numbers.**

* * * * *

| CAS No. | Substance or mixture name | Testing | FR publication date |
|---|---|---|---|
| * | * | * | * |
| 556–67–2 | Octamethylcyclotetrasiloxane (D4) | Chemical fate | January 10, 1989. |
| | | Environmental effects | January 10, 1989. |
| | | Environmental testing | April 4, 2014. |
| * | * | * | * |

* * * * *

[FR Doc. 2014–07557 Filed 4–3–14; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

### 44 CFR Part 64

**[Docket ID FEMA–2013–0002; [Internal Agency Docket No. FEMA–8327]**

### Suspension of Community Eligibility

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

**DATES:** *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

**FOR FURTHER INFORMATION CONTACT:** If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2953.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase

Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

*National Environmental Policy Act.* This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

*Regulatory Flexibility Act.* The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

*Regulatory Classification.* This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 13132, Federalism.* This rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This rule meets the applicable standards of Executive Order 12988.

*Paperwork Reduction Act.* This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

**List of Subjects in 44 CFR Part 64**

Flood insurance, Floodplains.

Accordingly, 44 CFR Part 64 is amended as follows:

## PART 64—[AMENDED]

■ 1. The authority citation for Part 64 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

### § 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

| State and location | Community No. | Effective date authorization/cancellation of sale of flood insurance in community | Current effective map date | Date certain Federal assistance no longer available in SFHAs |
|---|---|---|---|---|
| **Region III** | | | | |
| Maryland: | | | | |
| Baltimore County, Unincorporated Areas. | 240010 | March 24, 1972, Emerg; March 2, 1981, Reg; May 5, 2014, Susp. | May 5, 2014 ..... | May 5, 2014 |
| West Virginia: Belmont, City of, Pleasants County. | 540253 | February 19, 1976, Emerg; June 3, 1991, Reg; May 5, 2014, Susp. | .....do ..... | Do. |
| Pleasants County, Unincorporated Areas .... | 540225 | December 24, 1975, Emerg; June 3, 1991, Reg; May 5, 2014, Susp. | .....do ..... | Do. |
| Saint Mary's, City of, Pleasants County ..... | 540156 | April 18, 1975, Emerg; June 3, 1991, Reg; May 5, 2014, Susp. | .....do ..... | Do. |
| **Region IV** | | | | |
| Georgia: Allenhurst, Town of, Liberty County | 130350 | May 6, 1975, Emerg; June 17, 1986, Reg; May 5, 2014, Susp. | .....do ..... | Do. |
| Bryan County, Unincorporated Areas ..... | 130016 | July 15, 1975, Emerg; November 16, 1983, Reg; May 5, 2014, Susp. | .....do ..... | Do. |
| Flemington, City of, Liberty County ..... | 130124 | November 27, 1974, Emerg; May 17, 1982, Reg; May 5, 2014, Susp. | .....do ..... | Do. |
| Gumbranch, City of, Liberty County ..... | 130610 | N/A, Emerg; October 21, 2008, Reg; May 5, 2014, Susp. | .....do ..... | Do. |

| State and location | Community No. | Effective date authorization/cancellation of sale of flood insurance in community | Current effective map date | Date certain Federal assistance no longer available in SFHAs |
|---|---|---|---|---|
| Hinesville, City of, Liberty County | 130125 | June 13, 1975, Emerg; September 16, 1982, Reg; May 5, 2014, Susp. | .....do | Do. |
| Liberty County, Unincorporated Areas | 130123 | January 22, 1975, Emerg; December 1, 1983, Reg; May 5, 2014, Susp. | .....do | Do. |
| Long County, Unincorporated Areas | 130127 | January 7, 1976, Emerg; September 27, 1985, Reg; May 5, 2014, Susp. | .....do | Do. |
| Ludowici, City of, Long County | 130128 | N/A, Emerg; May 21, 2007, Reg; May 5, 2014, Susp. | .....do | Do. |
| Pembroke, City of, Bryan County | 130017 | July 25, 1975, Emerg; August 1, 1986, Reg; May 5, 2014, Susp. | .....do | Do. |
| Walthourville, City of, Liberty County | 130459 | N/A, Emerg; October 29, 2008, Reg; May 5, 2014, Susp. | .....do | Do. |
| Mississippi: DeSoto County, Unincorporated Areas. | 280050 | March 4, 1975, Emerg; May 3, 1990, Reg; May 5, 2014, Susp. | .....do | Do. |
| Hernando, City of, DeSoto County | 280292 | September 25, 1975, Emerg; August 19, 1985, Reg; May 5, 2014, Susp. | .....do | Do. |
| Horn Lake, City of, DeSoto County | 280051 | March 7, 1975, Emerg; May 3, 1990, Reg; May 5, 2014, Susp. | .....do | Do. |
| Olive Branch, City of, DeSoto County | 280286 | February 11, 1975, Emerg; July 2, 1987, Reg; May 5, 2014, Susp. | .....do | Do. |
| Southaven, City of, DeSoto County | 280331 | August 16, 1982, Emerg; September 18, 1987, Reg; May 5, 2014, Susp. | .....do | Do. |
| **Region V** | | | | |
| Indiana: Monterey, Town of, Pulaski County | 180333 | February 24, 1975, Emerg; April 15, 1988, Reg; May 5, 2014, Susp. | .....do | Do. |
| Pulaski County, Unincorporated Areas | 180482 | December 30, 1985, Emerg; April 1, 1988, Reg; May 5, 2014, Susp. | .....do | Do. |
| Winamac, Town of, Pulaski County | 180212 | March 27, 1975, Emerg; December 1, 1992, Reg; May 5, 2014, Susp. | .....do | Do. |
| **Region VII** | | | | |
| Kansas: Clay Center, City of, Clay County | 200053 | July 18, 1974, Emerg; March 18, 1986, Reg; May 5, 2014, Susp. | .....do | Do. |
| Clay County, Unincorporated Areas | 200052 | June 1, 1983, Emerg; September 27, 1985, Reg; May 5, 2014, Susp. | .....do | Do. |
| Morganville, City of, Clay County | 200055 | February 6, 1995, Emerg; October 20, 1999, Reg; May 5, 2014, Susp. | .....do | Do. |

*-do- = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: March 21, 2014.

**David L. Miller,**

*Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2014–07587 Filed 4–3–14; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 300

**[Docket No. 131213999–4281–02]**

**RIN 0648–BD82**

## Pacific Halibut Fisheries; Catch Sharing Plan

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** The Assistant Administrator (AA) for Fisheries, National Oceanic and Atmospheric Administration (NOAA), announces approval of the Area 2A (waters off the U.S. West Coast) Catch Sharing Plan (Plan), with modifications recommended by the Pacific Fishery Management Council (Council), and implementing regulations for 2014. These actions are intended to enhance the conservation of Pacific halibut and further the goals and objectives of the Council. The regulations of the International Pacific Halibut Commission (IPHC) were published on March 12, 2014 and the sport fishing management measures in this rule are an additional subsection of those regulations.

**DATES:** This rule is effective April 1, 2014. The 2014 management measures are effective until superseded.

**ADDRESSES:** Additional requests for information regarding this action may be obtained by contacting the Sustainable Fisheries Division, NMFS West Coast Region, 7600 Sand Point Way NE., Seattle, WA 98115. For information regarding all halibut fisheries and general regulations not contained in this rule contact the International Pacific Halibut Commission, 2320 W. Commodore Way, Suite 300, Seattle, WA 98199–1287. This final rule also is accessible via the Internet at the Federal eRulemaking portal at *http://www.regulations.gov,* identified by NOAA–NMFS–2014–0009, or at the Office of the Federal Register Web site at *http://www.access.gpo.gov/su_docs/aces/aces140.html.* Background information and documents are available at the NMFS West Coast Region Web site at *http://*

*www.westcoast.fisheries.noaa.gov/fisheries/management/pacific_halibut_management.html* and at the Council's Web site at *http://www.pcouncil.org.* Electronic copies of the Final Regulatory Flexibility Analysis (FRFA) prepared for this action may be obtained from *http://www.regulations.gov* or from the West Coast Region Web site at *http://www.westcoast.fisheries.noaa.gov/fisheries/management/pacific_halibut_management.html.*

**FOR FURTHER INFORMATION CONTACT:** Sarah Williams, 206–526–4646, email at *sarah.williams@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Background

The IPHC has promulgated regulations governing the Pacific halibut fishery in 2014, pursuant to the Convention between Canada and the United States for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979). Pursuant to the Northern Pacific Halibut Act of 1982 (Halibut Act) at 16 U.S.C. 773b, the Secretary of State accepted the 2014 IPHC regulations as provided by the Northern Pacific Halibut Act of 1982 (Halibut Act) at 16 U.S.C. 773–773k. NMFS published these regulations on March 12, 2014 (79 FR 13906).

The Halibut Act provides that the Regional Fishery Management Councils may develop, and the Secretary may implement, regulations governing harvesting privileges among U.S. fishermen in U.S. waters that are in addition to, and not in conflict with, approved IPHC regulations. To that end, the Council has adopted a Catch Sharing Plan (Plan) allocating halibut among groups of fishermen in Area 2A, which is off the coasts of Washington, Oregon, and California. The Plan allocates the Area 2A catch limit among treaty Indian and non-Indian commercial and sport harvesters. The treaty Indian group includes tribal commercial, tribal ceremonial, and subsistence fisheries. From 1988 through 1994, the Council recommended and NMFS implemented annual Catch Sharing Plans. In 1995, the Council recommended and NMFS approved and implemented a long-term Catch Sharing Plan (60 FR 14651; March 20, 1995, as amended by 61 FR 35548). In each of the intervening years between 1995 and the present, the Council has recommended and NMFS has approved minor revisions to the Plan to adjust for the changing needs of the fisheries, in accordance with 50 CFR 300.62. NMFS implements the allocation scheme in the Plan through annual regulations for Area 2A. The proposed rule describing the changes the Council recommended to the Plan and resulting proposed Area 2A regulations for 2014 was published on February 6, 2014 (79 FR 7156).

In previous years, NMFS has published a final rule that includes both the annual management measures for Area 2A and the IPHC regulations. For 2014, NMFS determined that analyses necessary to support the Area 2A regulations could not be completed in time for publication of a final rule including both Area 2A and IPHC regulations prior to the start of halibut fisheries in Alaska and the treaty Indian fisheries in Area 2A. Therefore, NMFS published the IPHC regulations on March 12, 2014 (79 FR 13906). Consequently, this final rule contains only regulations implementing the Plan in Area 2A. The IPHC regulations apply to commercial and treaty Indian fisheries in Area 2A; therefore anyone wishing to fish for halibut in Area 2A should read both this final rule and the March 12, 2014 rule on the **Federal Register** that includes the IPHC regulations.

## Changes to the Pacific Fishery Management Council's Area 2A Catch Sharing Plan

This final rule approves several Council-recommended changes to the Pacific Fishery Management Council's Area 2A Plan, and implements the Plan through annual management measures. For 2014, the Council has recommended, and NMFS has included in this final rule, several changes to the recreational fishery in the South of Humbug Mountain subarea in order to address a pattern of quota exceedances in this subarea. The Council recommendation splits the existing subarea, which includes portions of both southern Oregon and northern California, into two state-specific subareas. This change will allow each state to use the most effective available management tools to keep the catch within their respective quotas. The existing Oregon/California sport fishery allocation of 31.7 percent of the non-tribal allocation is split into a 1 percent California sport fishery allocation and a 30.7 percent Oregon sport fishery allocation. The Council's South of Humbug Policy committee recommended lowering the projected catch in the South of Humbug area by 40 to 60 percent to begin a stepwise process to bring the catches within the quota. Therefore, the new California subarea would be open to fishing from May-July and September-October, with the month of August closed as a quota management measure. The State of Oregon would monitor and manage the Southern Oregon subarea in season to avoid exceeding the quota.

Most of these changes did not generate controversy at the relevant Council meetings. Some members of the public testified against the August closure in the California subarea on the basis that this would reduce income in the affected ports. The Council formed the South of Humbug Mountain workgroup to examine the effect of various management measures on catches in the South of Humbug Mountain area. The Council also formed the South of Humbug Policy committee to consider the workgroup analysis and make recommendations for management measure changes to reduce catch in this area. The Policy committee ultimately recommended reducing catch in this area by 40 to 60 percent. Based on analysis presented by the workgroup at the September 2013 meeting, the Council determined that this was the best available measure to begin a stepwise process for lowering the projected catch in this area by 40 to 60 percent as recommended by the policy committee. These changes are expected to result in minimal environmental impacts, and should reduce the catch in the area south of Humbug Mountain compared to the last several years.

Additionally for 2014, the Council has recommended several minor changes to the Plan that would: (1) Change the deadline for applying for IPHC licenses for incidental halibut retention in the salmon troll and sablefish fisheries to accommodate earlier start dates for such retention; (2) eliminate the nearshore fishery in the Washington North Coast subarea, as the quota in this subarea is generally used entirely by the all depth fishery; (3) modify the season dates and create a nearshore fishery in the Columbia River subarea to create additional opportunity in this underutilized area; (4) modify the public input provisions for the Oregon central coast subarea to allow the State to use methods other than workshops to obtain public input; and (5) modify the Oregon central coast subarea nearshore fishery dates. This rule also adopts the annual domestic management measures for Area 2A. Changes to these management measures from 2013 are necessary to implement the IPHC's decision regarding the Area 2A Total Allowable Catch (TAC) and the above-described changes to the Catch Sharing Plan.

**Incidental Halibut Retention in the Sablefish Primary Fishery North of Pt. Chehalis, Washington and the Salmon Troll Fishery Along the West Coast**

The Plan provides that incidental halibut retention in the sablefish primary fishery north of Pt. Chehalis, Washington, will be allowed when the Area 2A TAC is greater than 900,000 lb (408.2 mt), provided that a minimum of 10,000 lb (4.5 mt) is available above a Washington recreational TAC of 214,100 lb (97.1 mt). In 2014, the TAC is 960,000 lb (435.4 mt); therefore, the allocation for incidental halibut retention in the sablefish fishery is 14,274 lb (6.47 mt). Landing restrictions were recommended by the Council at its March 8–13, 2014, meeting. NMFS will publish the restrictions in a future final rule in the **Federal Register**.

The Plan allocates 15 percent of the non-Indian commercial TAC to the salmon troll fishery in Area 2A. For 2014 that allocation is 29,671 lb (13.46 mt).

**Comments and Responses**

NMFS accepted comments through February 21, 2014, on the proposed rule for the Area 2A Plan and annual management measures and received 29 public comment letters: One comment letter each from Washington Department of Fish and Wildlife (WDFW) and Oregon Department of Fish and Wildlife (ODFW) recommending season dates for halibut sport fisheries in each state, one letter from the Council correcting the Plan language and resulting allocations for the Oregon subareas and correcting a season opening date in the Washington North Coast subarea, one letter from an individual commenting on treaty rights, and 25 letters regarding halibut fishing off California.

*Comment 1:* The WDFW held a public meeting following the IPHC's final 2014 TAC decisions to review the results of the 2013 Puget Sound halibut fishery, and to develop season dates for the 2014 sport halibut fishery. Based on the 2014 Area 2A TAC of 960,000 lb (435.4 mt), the halibut quota for the Puget Sound sport fishery is 57,393 lb (26 mt). Because the catch in this area has exceeded the quota in recent years, WDFW has recommended a shorter season for 2014, even though the allocation to the Puget Sound subarea is the same as 2013. Within the Puget Sound sport halibut fishery, WDFW recommends the following dates: In the Eastern Region open May 9, 10, and 17; May 22–25 (Thu–Sun); May 29–31 (Thu–Sun); and Saturday, June 7. In the Western Region open May 22–25 (Thu–Sun); May 29–31 (Thu–Sun); and Saturday, June 7.

*Response:* NMFS agrees with WDFW's recommended Puget Sound season dates. These dates will help keep this area within its quota, while providing for angler enjoyment and participation. Therefore, NMFS implements the dates for this subarea as stated above, in this final rule.

*Comment 2:* ODFW received public comments on Oregon halibut fisheries through a public meeting and an online survey following the final TAC decision by the IPHC. In the Central Coast subarea, ODFW recommends the following days for the spring fishery, within this subarea's parameters, for a Thursday–Saturday season and with weeks of adverse tidal conditions skipped: Regular open days May 8–10, May 22–24, June 5–7, and June 19–21. Back-up dates will be July 3–5, July 17–19, and July 31. For the summer fishery in this subarea, ODFW recommends following the Plan's parameters of opening the first Friday in August, with open days to occur every other Friday–Saturday, unless modified in-season within the parameters of the Plan. Under the Plan, the 2014 summer all-depth fishery in Oregon's Central Coast Subarea occurs: August 1, 2; 15, 16; 29, 30; September 12, 13; 26, 27; October 10, 11; and 24, 25.

Additionally, ODFW pointed out that the Catch Sharing Plan language, as transmitted to NMFS by the Council, incorrectly described the intended source of the allocation to the new Southern Oregon subarea as the Spring all-depth allocation rather than the Central Coast allocation. Therefore, the proposed rule incorrectly listed the allocation amounts to the Central coast subarea spring fishery and the Southern Oregon subarea. The Council submitted corrected Plan language in their comment letter, as described below. ODFW supports the Council's letter correctly describing the allocations.

*Response:* NMFS agrees with ODFW's recommended Central Coast season dates. These dates will help keep this area within its quota, while providing for angler enjoyment and participation. Therefore, NMFS implements the dates in this final rule. NMFS also agrees with ODFWs clarification for the Central coast subarea and Southern Oregon subarea allocations and implements the corrected allocations in this final rule.

*Comment 3:* The Pacific Fishery Management Council submitted a letter describing the incorrect Plan language for the Southern Oregon allocation and an incorrect date in the proposed rule for the Washington North Coast subarea. While the intended source of the allocation for the Southern Oregon subarea was correctly described the ODFW report before the Council, it was incorrectly described in Plan language included in that report and transmitted to NMFS after the Council made its final recommendation. The Southern Oregon subarea should be allocated 2 percent of the Central Coast subarea allocation, as was stated in the ODFW report and in the final motion as approved by the Council, and not allocated an amount from the Central Coast spring fishery as described in the proposed rule.

*Response:* NMFS supports the Council's corrected Plan language as submitted because this language accurately reflects the Council's final motion. NMFS also makes the correction to the Washington North Coast subarea date as described in this final rule.

*Comment 4:* Several commenters requested NMFS delay the implementation of the Council's recommended August closure in the newly created California subarea. Several commenters stated that fishing has improved each year and there is no evidence that halibut is overfished in Northern California. Several commenters stated that the decision to close the month of August is no longer necessary because the IPHC survey results for 2013 showed there was 100,000 lbs of exploitable biomass off Northern California that was previously undetected, and that this closure will cause unnecessary economic hardship to recreational anglers.

*Response:* NMFS agrees that catches in northern California have increased over the last several years and that halibut are being managed at a sustainable level, but NMFS does not agree that this makes the August closure in the California subarea unnecessary. We believe the increase in catches means more information is needed about the relative abundance of halibut, not that the allocation should be increased at this time or that the August closure should be delayed. While more information is being gathered through repeated stock assessment surveys it is necessary to manage the California subarea to its allocation, similar to all other areas. A Council workgroup analyzed Plan changes that would reduce projected catch in California by 40 to 60 percent, relative to the most recent 5 year average, in order to manage this fishery in a manner more consistent with the allocation framework. The analysis showed that even with a reduction of this magnitude, catch in this area is projected to exceed the allocation. However, NMFS believes this management action to close the

recreational halibut fishery during the month of August is a good first step in attempting to manage this area in a manner more consistent with the allocation, while additional stock assessment surveys are conducted to help determine relative abundance of the halibut resource in California. Following the Council's South of Humbug workgroup's analysis, CDFW recommended closing the recreational halibut fishery during August as the best way to achieve the targeted reduction. Other alternatives were analyzed and considered, but they did not result in a season structure that reduced projected catch to the target level while still providing some fishing opportunity.

By way of comparison, subareas in Washington and Oregon have also seen recreational fisheries attain their subarea quotas at faster rates than anticipated. In those cases, inseason management action was taken to control catch and manage in a manner consistent with the allocations. Not implementing the August closure in California for 2014 would result in a harvest much greater than the allocation. NMFS believes it is important to manage the halibut resource in a manner consistent with the Area 2A Catch Sharing Plan. The Council did not recommend a change in the allocations for Area 2A, and until allocations are changed, there is a need to manage this fishery to stay within the overall allocation and subarea allocations.

Regarding the results of the IPHC survey, NMFS believes the commenters misunderstand the implications of the IPHC apportionment and survey results. NMFS acknowledges that in an IPHC presentation from the Interim Meeting, there is a 100,000 lbs difference between the Fishery Constant Exploitation Yield values listed for Area 2A when the expanded survey in 2013 is included and when it is not. However, NMFS does not agree that this means there is simply 100,000 lbs of halibut now available for harvest in California; rather, the survey results show that Area 2A represented a larger portion of the total coastwide halibut biomass. NMFS also disagrees that this makes the August closure unnecessary. 2013 was the first year the IPHC survey operated in Northern California, which is not enough time to show trends in abundance in this area or to delay management changes necessary to address several years of quota exceedences. The IPHC is planning to repeat the northern California survey areas in 2014 and in additional stations at shallow and deeper depths. NMFS believes information gathered from the continuing survey will guide any further discussions relative to halibut abundance.

NMFS understands that closure of the directed recreational halibut fishery in August may have economic impacts on businesses that rely on halibut. However, this fishery restriction is necessary to significantly reduce catch and manage the fishery in a manner more consistent with the current allocation.

*Comment 5:* The allocation to the California recreational fishery should be increased to a more appropriate level to reflect the abundance of Pacific halibut off the California coast.

*Response:* As discussed above, the IPHC conducts an annual stock assessment survey in Area 2A. In 2013, the survey was expanded into Northern California, providing some initial information on halibut abundance in the area. The IPHC has recently announced the expansion of the survey into new areas including areas south of the southern extent of the 2013 survey and shallower and deeper depths for 2014. Survey results will help inform any discussions the Council may have on Plan changes. The Council annually addresses changes to the Plan. NMFS believes the current allocations are appropriate, given the information available. Implementing the Plan, as recommended by the Council, is the best strategy for sustainable management of the halibut resource in Area 2A.

*Comment 6:* Several comments stated National Standards 2 and 4 are designed to require the Council and NMFS to use the best available science and to allocate fish equitably among different state residents.

*Response:* While the regulations in this rule are not subject to the National Standards of the Magnuson Stevens Act, the halibut TAC decision is made after the IPHC Commissioners have considered the best available science as presented by the IPHC through stock assessment models, which are informed by the annual survey. As for National Standard 4, the Plan and any changes are discussed through the Council, which has representatives from Washington, Oregon, California, and Idaho. Further, the Council hears advice from advisory bodies composed of industry representatives from all three states and Plan changes go through a two meeting process with time for the public to comment on any concerns regarding those changes. Plan changes are implemented for the benefit of all citizens.

*Comment 7:* Treaty rights should be ended, they are divisive and serve no purpose.

*Response:* This comment is beyond the scope of this final rule and NMFS' authority. The Plan allocates 35% of the Area 2A TAC to the Tribes with treaty rights to fish for halibut. This allocation is consistent with the treaties and caselaw interpreting those treaties, which are federal law that govern the actions of NOAA.

**Changes From the Proposed Rule**

On February 6, 2014, NMFS published a proposed rule to modify the Plan and recreational management measures for Area 2A (79 FR 7156). The provisions in the proposed rule were based on the final 2A TAC of 960,000 lb. The main changes in this final rule are to add dates for sport fisheries that were not listed in the proposed rule and update the allocations to the Southern Oregon and Central Coast subareas. The proposed rule did not contain final season dates because the states do not submit their final season date recommendations until the final TAC decision is made by the IPHC and the states have held their public meetings. Additionally, this rule increases the Southern Oregon subarea allocation and decreases the Central Coast allocation to match the appropriate Plan allocations, as described in the Comments and Responses section above; neither change affects any other subareas. Finally, one minor change is made to the Washington North Coast subarea dates to correct the error in the proposed rule identified in the Council's comment letter. There are no other substantive changes from the proposed rule.

**Annual Halibut Management Measures**

The sport fishing regulations for Area 2A, included in paragraph 26 below, are consistent with the measures adopted by the IPHC and approved by the Secretary of State, but were developed by the Pacific Fishery Management Council and promulgated by the United States under the Halibut Act. Section 26 refers to a section that is in addition to and corresponds to the numbering in the IPHC regulations published on March 12, 2014 (79 FR 13906).

26. Sport Fishing for Halibut—Area 2A

(1) The total allowable catch of halibut shall be limited to:

(a) 214,110 pounds (97.1 metric tons) net weight in waters off Washington; and

(b) 197,808 pounds (89.7 metric tons) net weight in waters off California and Oregon.

(2) The Commission shall determine and announce closing dates to the public for any area in which the catch limits promulgated by NMFS are estimated to have been taken.

(3) When the Commission has determined that a subquota under paragraph (8) of this section is estimated to have been taken, and has announced a date on which the season will close, no person shall sport fish for halibut in that area after that date for the rest of the year, unless a reopening of that area for sport halibut fishing is scheduled in accordance with the Catch Sharing Plan for Area 2A, or announced by the Commission.

(4) In California, Oregon, or Washington, no person shall fillet, mutilate, or otherwise disfigure a halibut in any manner that prevents the determination of minimum size or the number of fish caught, possessed, or landed.

(5) The possession limit on a vessel for halibut in the waters off the coast of Washington is the same as the daily bag limit. The possession limit on land in Washington for halibut caught in U.S. waters off the coast of Washington is two halibut.

(6) The possession limit on a vessel for halibut caught in the waters off the coast of Oregon is the same as the daily bag limit. The possession limit for halibut on land in Oregon is three daily bag limits.

(7) The possession limit on a vessel for halibut caught in the waters off the coast of California is one halibut. The possession limit for halibut on land in California is one halibut.

(8) The sport fishing subareas, subquotas, fishing dates, and daily bag limits are as follows, except as modified under the in-season actions in 50 CFR 300.63(c). All sport fishing in Area 2A is managed on a ''port of landing'' basis, whereby any halibut landed into a port counts toward the quota for the area in which that port is located, and the regulations governing the area of landing apply, regardless of the specific area of catch.

(a) The area in Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line extending from 48°17.30′ N. lat., 124°23.70′ W. long. north to 48°24.10′ N. lat., 124°23.70′ W. long., is not managed in-season relative to its quota. This area is managed by setting a season that is projected to result in a catch of 57,393 lbs (26 mt).

(i) The fishing season in eastern Puget Sound (east of 123°49.50′ W. long., Low Point) is May 9, 10, and 17; May 22–25 (Thu–Sun); May 29–31; and Saturday, June 7. The fishing season in western Puget Sound (west of 123°49.50′ W. long., Low Point) is open May 22–25 (Thu–Sun); May 29–31; and Saturday, June 7.

(ii) The daily bag limit is one halibut of any size per day per person.

(b) The quota for landings into ports in the area off the north Washington coast, west of the line described in paragraph (2)(a) of section 26 and north of the Queets River (47°31.70′ N. lat.), is 108,030 (49 mt).

(i) The fishing seasons are:

(A) Commencing on May 15 and continuing 2 days a week (Thursday and Saturday) until 108,030 (49 mt) are estimated to have been taken and the season is closed by the Commission, or until May 24.

(B) If sufficient quota remains the fishery will reopen on June 5 and/or June 7, continuing 2 days per week (Thursday and Saturday) until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. After May 24, any fishery opening will be announced on the NMFS hotline at 800–662–9825. No halibut fishing will be allowed after May 24 unless the date is announced on the NMFS hotline.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Recreational fishing for groundfish and halibut is prohibited within the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA). It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the North Coast Recreational YRCA. A vessel fishing in the North Coast Recreational YRCA may not be in possession of any halibut. Recreational vessels may transit through the North Coast Recreational YRCA with or without halibut on board. The North Coast Recreational YRCA is a C-shaped area off the northern Washington coast intended to protect yelloweye rockfish. The North Coast Recreational YRCA is defined in groundfish regulations at § 660.70(a).

(c) The quota for landings into ports in the area between the Queets River, WA (47°31.70′ N. lat.), and Leadbetter Point, WA (46°38.17′ N. lat.), is 42,739 lb (19.39 mt).

(i) This subarea is divided between the all-waters fishery (the Washington South coast primary fishery), and the incidental nearshore fishery in the area from 47°31.70′ N. lat. south to 46°58.00′ N. lat. and east of a boundary line approximating the 30 fm depth contour. This area is defined by straight lines connecting all of the following points in the order stated as described by the following coordinates (the Washington South coast, northern nearshore area):

(1) 47°31.70′ N. lat, 124°37.03′ W. long;
(2) 47°25.67′ N. lat, 124°34.79′ W. long;
(3) 47°12.82′ N. lat, 124°29.12′ W. long;
(4) 46°58.00′ N. lat, 124°24.24′ W. long.

The south coast subarea quota will be allocated as follows: 40,739 lb (18.48 mt) for the primary fishery and 2,000 lb (0.9 mt) for the nearshore fishery. The primary fishery commences on May 4, and continues 2 days a week (Sunday and Tuesday) until May 20. If the primary quota is projected to be obtained sooner than expected, the management closure may occur earlier. Beginning on June 1 the primary fishery will be open at most 2 days per week (Sunday and/or Tuesday) until the quota for the south coast subarea primary fishery is taken and the season is closed by the Commission, or until September 30, whichever is earlier. The fishing season in the nearshore area commences on May 4, and continues 7 days per week. Subsequent to closure of the primary fishery the nearshore fishery is open 7 days per week, until 42,739 lb (19.39 mt) is projected to be taken by the two fisheries combined and the fishery is closed by the Commission or September 30, whichever is earlier. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the northern nearshore area for another fishing day, then any remaining quota may be transferred in-season to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Seaward of the boundary line approximating the 30-fm (55 m) depth contour and during days open to the primary fishery, lingcod may be taken, retained and possessed when allowed by groundfish regulations at 50 CFR 660.360, subpart G.

(iv) Recreational fishing for groundfish and halibut is prohibited within the South Coast Recreational YRCA and Westport Offshore YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the South Coast Recreational YRCA and Westport Offshore YRCA. A vessel fishing in the South Coast Recreational YRCA and/or Westport Offshore YRCA may not be in possession of any halibut. Recreational vessels may transit through the South Coast Recreational YRCA and Westport Offshore YRCA with or without halibut on board. The South Coast Recreational YRCA and Westport Offshore YRCA are areas off the southern Washington coast established to protect yelloweye

rockfish. The South Coast Recreational YRCA is defined at 50 CFR 660.70(d). The Westport Offshore YRCA is defined at 50 CFR 660.70(e).

(d) The quota for landings into ports in the area between Leadbetter Point, WA (46°38.17′ N. lat.), and Cape Falcon, OR (45°46.00′ N. lat.), is 11,895 lb (5.4 mt).

(i) This subarea is divided into an all-depth fishery and a nearshore fishery. The nearshore fishery is allocated 10 percent or 1,500 pounds of the subarea allocation, whichever is less. The nearshore fishery is restricted to the area shoreward of the boundary line approximating the 30 fm (55 m) depth contour from Leadbetter Point to the Washington/Oregon border and the boundary line approximating the 40 fm (73 m) depth contour in Oregon. The nearshore fishery opens May 5, and continues 3 days per week (Monday–Wednesday) until the nearshore allocation is taken, or September 30, whichever is earlier. The all depth fishing season commences on May 1, and continues 4 days a week (Thursday–Sunday) until 8,564 lb (3.8 mt) are estimated to have been taken and the season is closed by the Commission, whichever is earlier. The fishery will reopen on August 7 and continue 4 days a week (Thursday–Sunday) until 2,141 lb (0.97 mt) has been taken and the season is closed by the Commission, or until September 30, whichever is earlier. Subsequent to this closure, if there is quota remaining in the Columbia River subarea, but it is insufficient for another fishing day, then any remaining quota may be transferred inseason to another Washington and/or Oregon subarea by NMFS via an update to the recreational halibut hotline. Any remaining quota would be transferred to each state in proportion to its contribution.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Pacific Coast groundfish may not be taken and retained, possessed or landed, except sablefish and Pacific cod when allowed by Pacific Coast groundfish regulations, when halibut are on board the vessel, during days open to the all depth fishery only.

(iv) Taking, retaining, possessing or landing halibut on groundfish trips is only allowed in the nearshore area on days not open to all-depth Pacific halibut fisheries.

(e) The quota for landings into ports in the area off Oregon between Cape Falcon (45°46.00′ N. lat.) and Humbug Mountain (42°40.50′ N. lat.), is 185,621 lb (84.2 mt).

(i) The fishing seasons are:

(A) The first season (the ''inside 40-fm'' fishery) commences July 1, and continues 7 days a week, in the area shoreward of a boundary line approximating the 40-fm (73-m) depth contour, or until the sub-quota for the central Oregon ''inside 40-fm'' fishery of 22,274 lb (10.1 mt), or any in-season revised subquota, is estimated to have been taken and the season is closed by the Commission, whichever is earlier. The boundary line approximating the 40-fm (73-m) depth contour between 45°46.00′ N. lat. and 42°40.50′ N. lat. is defined at § 660.71(k).

(B) The second season (spring season), which is for the ''all-depth'' fishery, is open May 8–10, May 22–24, June 5–7, and June 19–21. The projected catch for this season is 113,229 lb (51.3 mt). If sufficient unharvested quota remains for additional fishing days, the season will re-open. Depending on the amount of unharvested quota available, the potential season re-opening dates will be: July 3–5, July 17–19, and July 31. If NMFS decides inseason to allow fishing on any of these re-opening dates, notice of the re-opening will be announced on the NMFS hotline (206) 526–6667 or (800) 662–9825. No halibut fishing will be allowed on the re-opening dates unless the date is announced on the NMFS hotline.

(C) If sufficient unharvested quota remains, the third season (summer season), which is for the ''all-depth'' fishery, will be open August 1, 2; 15, 16; 29, 30; September 12, 13; 26, 27; October 10, 11; and 24, 25; or until the combined spring season and summer season quotas in the area between Cape Falcon and Humbug Mountain, OR, are estimated to have been taken and the area is closed by the Commission, or October 31, whichever is earlier. NMFS will announce on the NMFS hotline in July whether the fishery will re-open for the summer season in August. No halibut fishing will be allowed in the summer season fishery unless the dates are announced on the NMFS hotline. Additional fishing days may be opened if sufficient quota remains after the last day of the first scheduled open period on August 1, 2014. If, after this date, an amount greater than or equal to 60,000 lb (27.2 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, the fishery may re-open every Friday and Saturday, beginning August 8 and ending October 31. If after September 1, an amount greater than or equal to 30,000 lb (13.6 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, and the fishery is not already open every Friday and Saturday, the fishery may re-open every Friday and Saturday, beginning September 5 and 6, and ending October 31. After September 1, the bag limit may be increased to two fish of any size per person, per day. NMFS will announce on the NMFS hotline whether the summer all-depth fishery will be open on such additional fishing days, what days the fishery will be open and what the bag limit is.

(ii) The daily bag limit is one halibut of any size per day per person, unless otherwise specified. NMFS will announce on the NMFS hotline any bag limit changes.

(iii) During days open to all-depth halibut fishing, no Pacific Coast groundfish may be taken and retained, possessed or landed, except sablefish and Pacific cod, when allowed by Pacific Coast groundfish regulations, if halibut are on board the vessel.

(iv) When the all-depth halibut fishery is closed and halibut fishing is permitted only shoreward of a boundary line approximating the 40-fm (73-m) depth contour, halibut possession and retention by vessels operating seaward of a boundary line approximating the 40-fm (73-m) depth contour is prohibited.

(v) Recreational fishing for groundfish and halibut is prohibited within the Stonewall Bank YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the Stonewall Bank YRCA. A vessel fishing in the Stonewall Bank YRCA may not possess any halibut. Recreational vessels may transit through the Stonewall Bank YRCA with or without halibut on board. The Stonewall Bank YRCA is an area off central Oregon, near Stonewall Bank, intended to protect yelloweye rockfish. The Stonewall Bank YRCA is defined at § 660.70(f).

(f) The quota for landings into ports in the area south of Humbug Mountain, OR (42°40.50′ N. lat.) to the Oregon/California Border (42°00.00′ N. lat.) is 3,712 lb (1.68 mt).

(i) The fishing season commences on May 1, and continues 7 days per week until the subquota is taken, or October 31, whichever is earlier.

(ii) The daily bag limit is one halibut per person with no size limit.

(g) The quota for landings into ports south of the Oregon/California Border (42°00.00' N. lat.) and along the California coast is 6,240 lb (2.8 mt).

(i) The fishing season will be open May 1 through July 31, 7 days a week and September 1 through October 31, 7 days per week.

(ii) The daily bag limit is one halibut of any size per day per person.

**Classification**

Section 5 of the Northern Pacific Halibut Act of 1982 (Halibut Act, 16 U.S.C. 773c) allows the Regional Council having authority for a particular geographical area to develop regulations governing the allocation and catch of halibut in U.S. Convention waters as long as those regulations do not conflict with IPHC regulations. This action is consistent with the Pacific Council's authority to allocate halibut catches among fishery participants in the waters in and off the U.S. West Coast.

This action has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) in association with the proposed rule for the 2014 Area 2A Catch Sharing Plan. The final regulatory flexibility analysis (FRFA) incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, if any, and NMFS' responses to those comments, and a summary of the analyses completed to support the action. NMFS received no comments on the IRFA. A copy of the FRFA is available from the NMFS West Coast Region (see **ADDRESSES**) and a summary of the FRFA follows.

The main management objective for the Pacific halibut fishery in Area 2A is to manage fisheries to remain within the TAC for Area 2A, while also allowing each commercial, recreational (sport), and tribal fishery to target halibut in the manner that is appropriate to meet both the conservation requirements for species that co-occur with Pacific halibut and the needs of fishery participants in particular fisheries and fishing areas. The changes to the Plan are described above.

Under the Regulatory Flexibility Act (RFA), NMFS must identify the small entities impacted by this rule, describe the impact, and describe any alternative actions considered. This action will affect fishing entities, including commercial and charter or party boats, and towns or communities in the fishing areas. Under the Small Business Administration's (SBA) regulations implementing the RFA, a fishing entity is considered ''small'' if it has gross annual receipts of less than $19.0 million. A governmental jurisdiction (i.e., town or community) is considered a small entity if it has fewer than 50,000 people. For marinas and charter or party boats, a small business is one with annual receipts not in excess of $7.0 million. Although many small and large nonprofit enterprises track fisheries management issues on the West Coast, the changes to the Plan and annual management measures will not directly affect those enterprises. Similarly, although many fishing communities are small governmental jurisdictions, no direct regulations for those governmental jurisdictions will result from this rule. However, charter boat operations and participants in the non-treaty directed commercial fishery off the coast of Washington, Oregon, and California, are small businesses that are directly regulated by this rule. These businesses are vessels that are issued IPHC licenses. In 2013 (the most recent data available), 608 vessels were issued IPHC licenses to retain halibut. IPHC issues licenses for: The directed commercial fishery in Area 2A (149 licenses in 2013); incidental halibut caught in the salmon troll fishery (332 licenses in 2013); and the charterboat fleet (127 licenses in 2013). No vessel may participate in more than one of these three fisheries per year.

The major effect of halibut management on small entities will be from the internationally set TAC decisions made by IPHC. Based on the recommendations of the states, and as conveyed through the Council, NMFS is implementing minor changes to the Plan that maximize recreational and commercial opportunities under the allocations that result from the TAC. There are no large entities involved in the halibut fisheries; therefore, none of these changes will have a disproportionate negative effect on small entities versus large entities. Based on the economic dimensions of the fishery, these minor proposed changes to the Plan are not expected to have a significant economic impact on a substantial number of small entities. The decreased TAC and associated management measures lead to combined fleetwide declines of under $700,000 n terms of ex-vessel revenues and recreational expenditures relative to 2013.

As described above, NMFS received 25 letters opposed to closing the new California subarea in August because of the economic impacts of this closure, many of these letters cited the results of a recent IPHC biological survey off California. These issues are addressed in the responses to Comment 4 above.

Pursuant to Executive Order 13175, the Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Section 302(b)(5) of the Magnuson-Stevens Fishery Conservation and Management Act establishes a seat on the Council for a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho. The U.S. Government formally recognizes that 13 Washington tribes have treaty rights to fish for Pacific halibut. In general terms, the quantification of those rights is 50 percent of the harvestable surplus of Pacific halibut available in the tribes' usual and accustomed fishing areas (described at 50 CFR 300.64). Each of the treaty tribes has the discretion to administer their fisheries and to establish their own policies to achieve program objectives. Accordingly, tribal allocations and regulations, including the changes to the Plan, have been developed in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

NMFS prepared an environmental assessment (EA) for the continued implementation of the Plan for 2014–2016 and the AA concluded that there will be no significant impact on the human environment as a result of this rule. A copy of the EA is available from NMFS (see **ADDRESSES**).

NMFS conducted a formal section 7 consultation under the Endangered Species Act for the Area 2A Catch Sharing Plan for 2014–2016 addressing the effects of implementing the Plan on ESA-listed yelloweye rockfish, canary rockfish, and bocaccio in Puget Sound, the Southern Distinct Population Segment (DPS) of green sturgeon, salmon, marine mammals, and sea turtles. In the biological opinion the Regional Administrator determined that the implementation of the Catch Sharing Plan for 2014–2016 is not likely to jeopardize the continued existence of Puget Sound yelloweye rockfish, Puget Sound canary rockfish, Puget Sound bocaccio, Puget Sound Chinook, Lower Columbia River Chinook, and green sturgeon. It is not expected to result in the destruction or adverse modification of critical habitat for green sturgeon or result in the destruction or adverse modification of proposed critical habitat for Puget Sound yelloweye rockfish, canary rockfish, bocaccio. In addition, the opinion concluded that the implementation of the Plan is not likely to adversely affect marine mammals, the remaining listed salmon species and sea turtles, and is not likely to adversely affect critical habitat for Southern resident killer whales, stellar sea lions, leatherback sea turtles, any listed salmonids, and humpback whales. Further, the Regional Administrator determined that implementation of the Catch Sharing Plan will have no effect on southern eulachon; this determination was made in a letter dated March 12, 2014.

NMFS finds good cause to waive the 30-day delay in effectiveness and make this rule effective on filing with the Office of the Federal Register, pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective on April 1, 2014. Leaving the 2013 annual management measures in place could harm to the halibut stock, because those measures are not based on the most current scientific information. Also, because the 2014 TAC is lower than the 2013 TAC, allowing the 2013 measures to remain in place could cause drastic management changes later in the year to prevent exceeding the lower 2014 subarea allocations once the 2014 measures are implemented and the 2014 Plan is approved. Those measures might significantly impact the fishery members by causing them to curtail effort or possibly lose revenue. Finally, this final rule approves the Council's 2014 Plan that responds to the needs of the fisheries in each state and approves the portions of the Plan allocating incidentally caught halibut in the salmon troll and sablefish primary fisheries, which start April 1. Therefore, allowing the 2013 subarea allocations and Plan to remain in place would not respond to the needs of the fishery and would be in conflict with the Council's final recommendation for 2014. Finally, this rule could not be published earlier due to a delay in completing the accompanying biological opinion and environmental assessment. For all of these reasons, a delay in effectiveness could ultimately cause economic harm to the fishing industry and associated fishing communities by reducing fishing opportunity later in the year to keep catch in the subareas within the lower 2014 allocations or result in harvest levels inconsistent with the best available scientific information. As a result of the potential harm to the halibut stock and fishing communities that could be caused by delaying the effectiveness of this final rule, NMFS finds good cause to waive the 30-day delay in effectiveness and make this rule effective upon filing with the Office of the Federal Register.

**Authority:** 16 U.S.C. 773 *et seq.*

Dated: April 1, 2014.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. 2014–07536 Filed 4–1–14; 4:15 pm]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 648

**[Docket No. 130903775–4276–02]**

**RIN 0648–BD65**

## Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Specifications and Management Measures

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS is implementing the specifications for fishing year (FY) 2014 for butterfish, as well as other management measures for the species managed under the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. NMFS previously set specifications for longfin squid and *Illex* squid for 3 years in 2012 (FYs 2012–2014) and, therefore, new specifications for these species are not included in this year's specification rulemaking. Likewise, NMFS set specifications for mackerel for 3 years in 2013 (2013–2015), so new mackerel specifications are not included in this action. This action increases the butterfish acceptable biological catch by 8 percent and the butterfish landings limit by 24 percent compared to FY 2013. This action also increases the butterfish Phase 3 trip limit from 500 lb (0.23 mt) to 600 lb (0.27 mt) for longfin squid/butterfish moratorium permit holders; establishes a 236-mt cap on river herring (blueback and alewife) and shad (American and hickory) catch in the mackerel fishery; and raises the post-closure possession limit for longfin squid to 15,000 lb (6.80 mt) for vessels targeting *Illex* squid.

**DATES:** Effective April 4, 2014.

**ADDRESSES:** Copies of the 2014 specifications document, including the Environmental Assessment (EA), is available from John K. Bullard, Regional Administrator, Greater Atlantic Regional Fisheries Office (formerly Northeast Regional Office), National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. This document is also accessible via the Internet at *http://www.nero.noaa.gov.* NMFS prepared a Final Regulatory Flexibility Analysis (FRFA), which is contained in the Classification section of this rule. Copies of the FRFA and the Small Entity Compliance Guide are available from: John K. Bullard, Regional Administrator, at the address provided above.

**FOR FURTHER INFORMATION CONTACT:** Aja Szumylo, Fishery Policy Analyst, 978–281–9195.

**SUPPLEMENTARY INFORMATION:**

### Background

Specifications, as referred to in this rule, are the combined suite of commercial and recreational catch levels established for 1 or more FYs. The specification process also allows for the modification of a select number of management measures, such as closure thresholds, gear restrictions, and possession limits. The Mid-Atlantic Fishery Management Council's (Council) process for establishing specifications relies on provisions within the Atlantic Mackerel, Squid, and Butterfish (MSB) Fishery Management Plan (FMP) and its implementing regulations, as well as requirements established by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Specifically, section 302(g)(1)(B) of the Magnuson-Stevens Act states that the Scientific and Statistical Committee (SSC) for each Regional Fishery Management Council shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch (ABC), preventing overfishing, maximum sustainable yield, and achieving rebuilding targets. The ABC is a level of catch that accounts for the scientific uncertainty in the estimate of the stock's defined overfishing level (OFL).

The Council's SSC met on May 15 and 16, 2013, confirming FY 2014 specifications for *Illex* squid, longfin squid, and Atlantic mackerel (mackerel) and recommending ABCs for the FY 2014 butterfish specifications. A proposed rule for FY 2014 MSB specifications and management measures was published on January 10, 2014 (79 FR 1813); the public comment period for the proposed rule ended February 10, 2014. NMFS set the specifications for longfin squid and *Illex* squid for 3 years in 2012 (77 FR 51858; August 27, 2012) and for mackerel in 2013 (78 FR 3346; January 16, 2013). Information on these specifications is not included in this action (except for in Table 1), but can be found in the final rules for those actions, as referenced above.

The MSB regulations require the specification of annual catch limits (ACL) and accountability measures (AM) for mackerel and butterfish (both

squid species are exempt from the ACL/AM requirements because they have a life cycle of less than 1 year). In addition, the regulations require the specification of domestic annual harvest (DAH), domestic annual processing (DAP), and total allowable level of foreign fishing (TALFF), along with joint venture processing for (JVP) commercial and recreational annual catch totals (ACT) for mackerel, the butterfish mortality cap in the longfin squid fishery, and initial optimum yield (IOY) for both squid species. Details concerning the Council's development of these measures were presented in the preamble of the proposed rule and are not repeated here.

The Council recommended that up to 3 percent of the total ACL for mackerel, up to 3 percent of the IOY for *Illex* and longfin squid, and up to 2 percent of the butterfish ACT could be set aside to fund projects selected under the 2014 Mid-Atlantic Research Set-Aside (RSA) Program. The final RSA allocation for longfin squid, 635 mt, is subtracted from the IOY for longfin squid in the table below. The butterfish award, 115 mt, is accounted for within the 1,106-mt unallocated portion of the butterfish ACT that covers discards in other fisheries (i.e., the ACL minus the Commercial ACT), and is thus not reflected in the table below.

TABLE 1—FINAL SPECIFICATIONS, IN METRIC TONS (MT), FOR MACKEREL FOR 2013–2015, BUTTERFISH FOR FY 2014, AND LONGFIN AND ILLEX SQUID FOR THE FY 2013–2014 FISHING YEAR

| Specifications | Mackerel | Butterfish | Illex | Longfin |
|---|---|---|---|---|
| OFL | Unknown | 18,200 | Unknown | Unknown |
| ABC | 43,781 | 9,100 | 24,000 | 23,400 |
| ACL | 43,781 | 9,100 | N/A | N/A |
| Commercial ACT | 34,907 | 8,190 | N/A | N/A |
| Recreational ACT/RHL | 2,443 | N/A | N/A | N/A |
| IOY | N/A | N/A | 22,915 | 21,810 |
| DAH/DAP | 33,821 | 3,200 | 22,915 | 21,810 |
| JVP | 0 | N/A | N/A | N/A |
| TALFF | 0 | 0 | N/A | N/A |
| RSA | N/A | ** | N/A | 635 |
| Butterfish Mortality Cap | | 3,884 | | |

** Part of ACT that accounts for discards in other fisheries.

**Final FY 2014 Specifications for Butterfish**

Details regarding the derivation of the Council's recommended butterfish specifications were included in the proposed rule, and are not repeated here. This action establishes the butterfish specifications as recommended by the Council. The butterfish ACL is set equal to the ABC, and there is a 10-percent buffer between ACL and ACT for management uncertainty, which results in an ACT of 8,190 mt. The DAH and DAP are set at 3,200 mt, and the butterfish discard cap in the longfin fishery is maintained at 3,884 mt. The remaining 1,106 mt of the ACT allows for discards in other fisheries to minimize the likelihood of an ACL overage, and covers the RSA allocation of 115 mt. Additionally, consistent with MSB regulations, butterfish TALFF is set at zero for FY 2014. Butterfish TALFF is only specified to address bycatch by foreign fleets targeting mackerel TALFF. Because no mackerel TALFF was allocated for FYs 2013–2015, butterfish TALFF is also set at zero.

Consistent with FY 2013, the FY 2014 butterfish mortality cap is allocated by Trimester, as follows:

TABLE 2—TRIMESTER ALLOCATION OF BUTTERFISH MORTALITY CAP ON THE LONGFIN SQUID FISHERY FOR 2014

| Trimester | Percent | Metric tons |
|---|---|---|
| I (Jan–Apr) | 65 | 2,525 |
| II (May–Aug) | 3.3 | 128 |
| III (Sep–Dec) | 31.7 | 1,231 |
| Total | 100 | 3,884 |

This action also increases the butterfish possession limit in Phase 3 of the directed butterfish fishery. Currently, NMFS manages the directed butterfish fishery in three phases. Table 3 shows the phases and possession limits, and the fishery moves from Phase 1, to Phase 2, and to Phase 3 when catch reaches specified thresholds throughout the year. When NMFS projects the butterfish harvest to reach the catch threshold for Phase 3, the trip limit for all limited access permit holders is currently reduced to 500 lb (0.23 mt) to avoid quota overages, but the incidental trip limit remains at 600 lb (0.27 mt). This action increases the Phase 3 possession limit from 500 lb (0.23 mt) to 600 lb (0.27 mt) to be consistent with the current incidental butterfish trip limit.

TABLE 3—THREE-PHASE BUTTERFISH MANAGEMENT SYSTEM

| Phase | Longfin squid/butterfish moratorium permit trip limit | | Squid/butterfish incidental catch permit trip limit |
|---|---|---|---|
| | ≥ 3 inch (7.62 cm) mesh | < 3 inch (7.62 cm) mesh | |
| 1 | Unlimited | 2,500 lb (1.13 mt) | 600 lb (0.27 mt) |
| 2 | 5,000 lb (2.27 mt) | 2,500 lb (1.13 mt) | 600 lb (0.27 mt) |
| 3 | 600 lb (0.27 mt) | 600 lb (0.27 mt) | 600 lb (0.27 mt) |

This action implements the following quota thresholds to reduce the trip limits for Phases 2 and 3 (Tables 4 and 5):

TABLE 4—BUTTERFISH THRESHOLDS FOR REDUCING TRIP LIMITS FOR PHASE 2

| Months | Trip limit reduction threshold (percent) | Butterfish harvest (metric tons) |
|---|---|---|
| Jan–Feb .... | 52 | 1,658 |
| Mar–Apr .... | 57 | 1,838 |
| May–Jun ... | 64 | 2,044 |
| Jul–Aug ..... | 70 | 2,249 |
| Sept–Oct ... | 77 | 2,455 |
| Nov–Dec ... | 82 | 2,635 |

TABLE 5—BUTTERFISH THRESHOLDS FOR REDUCING TRIP LIMITS FOR PHASE 3

| Months | Trip limit reduction threshold (percent) | Butterfish harvest (metric tons) |
|---|---|---|
| Jan–Feb .... | 66 | 2,121 |
| Mar–Apr .... | 71 | 2,275 |
| May–Jun ... | 77 | 2,455 |
| Jul–Aug ..... | 82 | 2,635 |
| Sept–Oct ... | 88 | 2,815 |
| Nov–Dec ... | 93 | 2,969 |

**Proposed River Herring and Shad Catch Cap in the Mackerel Fishery**

This action establishes a river herring and shad (RH/S) catch cap in the mackerel fishery. In order to limit RH/S catch, Amendment 14 to the FMP (79 FR 10029, February 24, 2014) includes the provision to allow the Council to set a RH/S cap. However, the actual value of the cap must be set through annual specifications. As such, this action implements the Council's recommended RH/S catch cap of 236 mt, which represents the estimated median amount of RH/S that would have been caught, had the commercial mackerel fishery landed its current quota of 33,821 mt for each year during 2005–2012, based on analysis of observer and landings. RH/S caught on all trips that land 20,000 lb (9.07 mt) or more of mackerel count against the cap. Once NMFS estimates that directed mackerel trips have caught 95 percent of the 236-mt RH/S cap, the directed mackerel fishery will close, and NMFS will institute a 20,000-lb (9.07-mt) mackerel trip limit, as currently occurs if the directed mackerel fishery closes. The RH/S cap amount should create a strong incentive for the fleet to avoid RH/S, allows for the possibility of the full mackerel quota to be caught if the fleet can avoid RH/S, and should reduce RH/S catches over time, compared to what would occur without a cap, given recent data.

**Longfin Squid Possession Limit Increase**

This action increases the Trimester II longfin squid post-closure possession limit for longfin squid/butterfish moratorium permit holders from 2,500 lb (1.13 mt) to 15,000 lb (6.80 mt) of longfin squid for vessels targeting *Illex* squid if they are fishing seaward of the *Illex* mesh exemption line and have more than 10,000 lb (4.54 mt) of *Illex* onboard. In recent years, fishermen are reporting that, to remain in compliance with longfin squid regulations, they sometimes have to discard large quantities of longfin squid while *Illex* fishing during longfin squid Trimester II after that trimester closes (i.e., from July 10-August 31 in 2012). Increasing the longfin squid possession limit to accommodate the multi-day nature of *Illex* fishing trips reduces the potential for high levels of regulatory discarding of longfin squid on such trips. Requiring a minimal *Illex* possession requirement of 10,000 lb (4.54 mt) helps ensure that vessels are actually *Illex* fishing when they utilize this provision, and restricting the possession limit increase to areas beyond the *Illex* mesh exemption line will help prevent vessels returning from *Illex* fishing from targeting longfin squid in inshore areas after a Trimester II closure. This action does not change the post-closure possession limit for longfin squid during Trimesters I (January 1–April 30) or III (September 1–December 31). The post-closure possession limit for longfin squid remains 2,500 lb (1.13 mt) during those Trimesters.

*Corrections*

This final rule also makes minor corrections to existing regulations, and reinstates regulations that were inadvertently deleted in previous rulemakings. NMFS implements these adjustments under the authority of section 305(d) to the Magnuson-Stevens Act, which provides that the Secretary of Commerce may promulgate regulations necessary to ensure that amendments to an FMP are carried out in accordance with the FMP and the Magnuson-Stevens Act. These adjustments, which are identified and described below, are necessary to clarify current regulations or the intent of the FMP and do not substantively impact any existing regulations.

NMFS corrects references to a now obsolete section of the regulatory text at § 648.26(a)(1)(iii). NMFS clarifies the coordinates at § 648.23(a)(3) to more accurately define the *Illex* exemption line. Most significantly, this action proposes to create a southern boundary for the exemption by extending the southernmost point eastward until it intersects with the boundary of the Exclusive Economic Zone. In addition, this rule reinstates the coordinates for the MSB bottom trawling restricted areas (i.e., Oceanographer Canyon and Lydonia Canyon) at § 648.23(a)(4), and the Tier 3 closure threshold for the mackerel fishery at § 648.24(b)(1)(ii), which were inadvertently deleted in previous rulemakings.

**Comments and Responses**

NMFS received 101 comments on the proposed rule. Four were from industry groups, including the Garden State Seafood Association (GSSA), Lund's Fisheries Incorporated (Lund's), the Cape Cod Commercial Fishermen's Alliance (CCCFA), and the Angler's Conservation Network (ACN). Four were from environmental groups, including the Herring Alliance, Wild Oceans, the Pew Charitable Trusts (Pew), and The Natural Resources Defense Council (NRDC). The remaining 93 comments were from individuals. Only comments relevant to the measures considered the 2014 Specifications and Management Measures are addressed below. Comments related to other fishery management actions or general fishery management practices are not addressed here.

*Comments on Butterfish Specifications and Management Measures*

*Comment 1:* GSSA and Lund's both commented in support of the Council's recommended butterfish specifications, including the DAH, the butterfish mortality cap, and the 3-phase butterfish management system. Both groups look forward to the opportunity to for a directed butterfish fishery in 2014.

*Response:* NMFS is implementing the specifications as proposed.

*Comment 2:* GSSA and Lund's both commented in support of the proposed increase to the Phase 3 butterfish possession limit for longfin squid/butterfish moratorium permit holders.

*Response:* NMFS concurs with the commenters, and believes that aligning the incidental butterfish possession limit and the Phase 3 possession limit for longfin squid/butterfish moratorium permit holders will reduce regulatory confusion.

*Comment 3:* One individual commented that there should be no increase in butterfish catch, and that the increase has no basis in fact.

*Response:* NFMS disagrees. As described in the proposed rule for this

action, the Council's recommended specifications are based on a NMFS Northeast Fisheries Science Center (NEFSC) analysis that suggested that increasing the butterfish ABC to 9,100 mt (from 8,400 mt in 2013) would be extremely unlikely to cause overfishing if the 2014 butterfish biomass were similar to butterfish biomass from 2006–2012. In addition, the NEFSC recently completed an assessment for butterfish, which found that butterfish stock is not overfished and overfishing is not occurring (Northeast Fisheries Science Center. 2014. 58th Northeast Regional Stock Assessment Workshop (58th SAW) Assessment Summary Report. US Dept Commer, Northeast Fish Sci Cent Ref Doc. 14–03; 44 p. Available from: National Marine Fisheries Service, 166 Water Street, Woods Hole, MA 02543–1026, or online at *http://nefsc.noaa.gov/publications/*).

*Comment 4:* One individual commented that there should be a commercial cap on butterfish catch. The commenter stated that trawlers devastate the butterfish population in certain areas and ruin fishing for recreational fisherman. The commenter went on to state that butterfish are an important forage species for striped bass, and that, when butterfish populations are low, fishing for striped bass and bluefish are virtually nonexistent because these predatory fish migrate to areas where more forage fish are available.

*Response:* NMFS notes that total commercial butterfish catch is limited by the butterfish ABC. Overall catch recommendations by the Council and the SSC are based on fishery stock assessments, which take natural mortality (including predation) into account. Although difficult to account for with available information, the role of species like butterfish in the complex ocean ecosystem is therefore considered in setting allocations. NMFS conducts research and investigates ways of incorporating ecosystem approaches into management that in the future could be considered for species like butterfish.

*Comment on the Post-Closure Longfin Squid Possession Limit Increase*

*Comment 5:* GSSA commented in support of the proposed increase to the Trimester II post-closure longfin squid possession limit for vessels targeting *Illex* squid.

*Response:* NMFS concurs with the commenters. Increasing the Trimester II post-closure longfin squid possession limit should reduce regulatory discarding on *Illex* squid trips.

*Comments on the River Herring and Shad Catch Cap*

*Comment 6:* GSSA and Lund's expressed concern that the 236-mt RH/S catch cap will jeopardize the optimum yield (OY) of the mackerel fishery if it returns this winter and spring. They noted that National Standard 1 requires the maintenance of OY for the U.S. fishing industry on a continuing basis.

*Response:* The Council's recommendation of 236 mt represents the estimated median amount of RH/S that would have been caught, had the commercial mackerel fishery landed its current quota of 33,821 mt for each year during 2005–2012, based on analysis of observer and landings. According to the National Standard 1 guidelines, OY is achieved by balancing the objectives of the fishery management plan with the various interests that comprise the greatest benefit to the nation, while at the same time preventing overfishing of the stock in question. As discussed in the EA for 2013 MSB Specifications, the most recent action to set mackerel specifications, the established mackerel quotas are designed to prevent overfishing while allowing for the fishery to catch the specified quota. As noted in the Council's analysis for 2014 MSB Specifications, the recommended RH/S cap level is intended to allow the mackerel fishery to catch its full quota if it achieves a relatively low RH/S encounter rate. This means that the selected RH/S quota should allow the fishery to achieve OY. NMFS agrees that the RH/S cap amount should create a strong incentive for the fleet to avoid RH/S while allowing for the possibility of the full mackerel quota to be caught.

*Comment 7:* GSSA and Lund's acknowledged the fishing industry's responsibility to reduce RH/S catch, as required by National Standard 9, but note that the industry has been actively engaged in bycatch reductions for these species for several years as part of the ongoing University of Massachusetts Dartmouth School of Marine Science and Technology (SMAST) and Massachusetts Division of Marine Fisheries (MADMF) bycatch avoidance and shoreside monitoring program. They expressed disappointment that the bycatch avoidance program is sufficient to reduce Atlantic sea scallop fleet interactions with yellowtail flounder, but that it is not good enough for managing the region's pelagic fisheries.

*Response:* The Atlantic sea scallop fishery does not depend on the SMAST/MADMF bycatch avoidance program to limit yellowtail flounder bycatch. Rather, the scallop fishery is subject to a cap on yellowtail catch that, if exceeded, results in area and seasonal closures of the scallop fishery. Each fishing year, the New England Fishery Management Council and NMFS set limits on the amount of yellowtail flounder that the scallop fishery can catch. If the scallop fishery exceeds its limits, seasonal area closures are triggered. The avoidance program helps the scallop fishery remain below the applicable yellowtail sub-ACL, which is what the river herring bycatch avoidance program would help the mackerel fishery do in the face of the new RH/S catch cap.

*Comment 8:* GSSA and Lund's asserted that the cap has no biological foundation and no measurable benefits to RH/S.

*Response:* As noted in the Amendment 14 final rule, data from the recent Atlantic States Marine Fisheries Commission (ASMFC) assessments for RH/S are insufficient to determine a biologically based catch cap for these species, and/or the potential effects on these populations if a catch cap is implemented on a coast-wide scale. In the absence of biologically based data, the cap is based on recent RH/S catch in the mackerel fishery. The Council and NMFS believe that capping the allowed level of RH/S catch in the mackerel fishery should provide an incentive for the industry to avoid RH/S, and may help to minimize, but will at least limit encounters with these species. Though it is difficult to measure the benefits of the catch cap on RH/S stocks without absolute abundance estimates, NMFS believes that, until better stock status information is available, implementing a cap will allow for better characterization of RH/S encounters in the mackerel fishery, and prevent RH/S catch from increasing beyond current levels.

*Comment 9:* GSSA and Lund's recommended that the 456-mt cap considered by the Council be applied during FY 2014. They believe the higher cap will increase the chances that the fleet will be able to target mackerel, should they return in abundance this year.

*Response:* The Council's analysis suggested that, by setting the RH/S cap at 456 mt, the mackerel industry would only have to avoid RH/S encounter rates similar to those observed in 2007 and 2012, the 2 recent years with the highest RH/S encounter rates, in order to catch the entire mackerel quota without attaining the RH/S cap. The Council determined, and NMFS agrees, that the 456-mt cap would not provide sufficient incentive for industry to continue to avoid RH/S. The selected 236-mt cap is expected to allow the fleet to catch the

entire mackerel quota if RH/S interactions are kept to a minimum.

*Comment 10:* GSSA and Lund's asserted that the midwater trawl fleet is being accused of negatively impacting the region's RH/S stocks without evidence, and without attempts to assign relative mortality to the range of issues facing RH/S recovery in the region. They note that the region's alewife runs are dramatically improving as habitat is reclaimed and environmental factors have provided for good recruitment in recent years.

*Response:* The impacts of RH/S catch in the mackerel fishery are not clear. Despite some signs of recovery for RH/S in some regions, the assessments of these species have concluded that they are depleted and that commercial fishing is a contributing factor. The Council recommended, and NMFS agrees with, addressing this by establishing the RH/S cap for the mackerel fishery. NMFS has also established a working group to evaluate all threats to river herring populations and possible solutions and ways of protecting river herring, and shad would benefit from the ultimate measures aimed at protecting river herring.

*Comment 11:* The NRDC, Pew, the Herring Alliance, ACN, CCCFA, Wild Oceans, and 91 individuals commented in support of a RH/S cap that would close the directed mackerel fishery when 95 percent of the cap has been reached. Commenters point to the depleted state of RH/S stocks, and the importance of these species as food sources for ocean predators. They also assert that the cap will provide strong incentive for offshore trawlers to avoid these fish in order to catch their target species.

*Response:* NMFS concurs with the commenters, and believes the RH/S cap should create an incentive for the fleet to avoid RH/S while allowing for the operation of the mackerel fishery.

*Comment 12:* The NRDC, Pew, the Herring Alliance, and ACN urged NMFS to retroactively account for all RH/S catches from January 1, 2014, forward. These groups also urged NMFS to implement the RH/S cap as soon as possible and waive the 30-day delay of the final rule's effective date for good cause. Pew and the Herring Alliance noted that a majority of mackerel landings happen from January to April, and that the greatest incidental catch of RH/S will likely occur during these months. Pew and the Herring Alliance went on to state that, if RH/S catch after January 1, 2014, meets or exceeds the cap, NMFS should close the mackerel fishery immediately to prevent additional, significant catch. Pew and the Herring Alliance argued that similar actions form a strong precedent to waive the 30-day delay in effectiveness for the final rule. They cite that NMFS waived the 30-day delay in effectiveness for midwater trawl vessels in Closed Area I (CA I) because a delay would have failed to increase observer coverage and control at-sea dumping of unsampled catch in time for an annual pulse of effort in CA I, and that this delay would have pushed back data collection by up to 1 year (74 FR 56567; November 2, 2009).

*Response:* NMFS will retroactively account for RH/S catch in the mackerel fishery from January 1, 2014, to the present. Given our intent to retroactively account for RH/S catch, we believe a waiver of the 30-day delay in effectiveness is justified so that NMFS is able to enforce a closure of the mackerel fishery related to the RH/S cap, should that become necessary.

*Comment 13:* Wild Oceans asked that, in lieu of Wild Oceans' preferred course of managing RH/S in a Federal FMP, NMFS devote the resources necessary to facilitate comprehensive conservation of RH/S throughout state and Federal waters, by coordinating management across Council jurisdictions (Mid-Atlantic and New England) and overlapping fisheries (Atlantic herring and mackerel).

*Response:* NMFS is committed to engaging in proactive, coordinated conservation efforts for RH/S. NMFS considers river herring to be a species of concern, but recently (78 FR 48944, August 12, 2013) determined that listing river herring as either threatened or endangered under the Endangered Species Act is not warranted at this time. Following this determination, NMFS established a technical working group and continues to work closely with the ASMFC and other partners to develop a long-term, dynamic conservation plan for river herring from Canada to Florida. The working group will evaluate the impact of ongoing restoration and conservation efforts (e.g., the RH/S caps in the mackerel and Atlantic herring fisheries), as well as new fisheries management measures, which should benefit the species. It will also review new information produced from ongoing research, including genetic analyses, ocean migration pattern research, and climate change impact studies, to assess whether recent reports showing higher river herring counts in the last 2 years represent sustained trends. NMFS is also committed to working with partners and tribal governments to continue implementing important conservation efforts and fund needed research for river herring. NMFS intends to revisit its river herring status determination within the next 5 years.

*Comment 14:* The Herring Alliance, Pew, and ACN also requested management of RH/S in a Federal FMP, and argued that, while the proposed catch cap is a first step, it is ultimately insufficient to prevent further population declines. They stated that the Magnuson-Stevens Act requires all stocks in need of conservation and management to be added to an FMP, and that an FMP would align Federal management more closely with state moratoria and sustainable fishery plans.

*Response:* The issue of Federal management of RH/S in an FMP is not considered in this action. The Council initiated Amendment 15 to the MSB FMP to explore the need for conservation and management of RH/S, and analyze all of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) provisions (i.e., management reference points, description and delineation of essential fish habitat, etc.) required for a Federal FMP. Scoping for MSB Amendment 15 began in October 2012 (77 FR 65867). The Council completed a document that examined a range of issues related to Federal management for RH/S. The document presented legal requirements for managing species under the MSA, the existing management and protection of RH/S, and the potential benefits of managing them under the MSA in contrast to the other authorities already providing protection. After reviewing the document, the Council determined at its October 2013 meeting that it should not go forward with the development of Amendment 15 at this time. The Council's decision was based on a range of considerations related to ongoing RH/S conservation and management efforts, including conservation efforts for RH/S at the local, state and Federal level, the pending incidental catch caps for RH/S in the Atlantic mackerel and Atlantic herring fisheries, the recent determination by NMFS that river herring are not endangered or threatened, and the NMFS commitment to expand engagement in river herring conservation following the ESA determination. The Council also decided to re-evaluate Federal management of RH/S in 3 years after a number of other actions related to RH/S conservation have been implemented.

*Comment 15:* Wild Oceans, Pew, the Herring Alliance, and ACN expressed concerns about the ability of NMFS to monitor and enforce the cap, given that key measures in MSB Amendment 14 were disapproved. They state that 100-

percent observer coverage on large capacity vessels and accountability measures to curtail the discarding of catch at-sea (slippage) are essential to an effective RH/S cap, given the fleet's fishing capacity and its demonstrated propensity for episodic, high impact bycatch events.

*Response:* While increases to observer coverage may improve the quality of data used to determine the rate of RH/S bycatch in the mackerel fishery, NMFS disagrees that the RH/S catch cap cannot be administered without the observer coverage and slippage cap measures disapproved in Amendment 14. Several key measures approved in Amendment 14 will be instrumental in administration of the cap. Amendment 14 implemented a pre-trip notification requirement for the mackerel fishery to help with the identification of directed mackerel trips and the placement of observers on those trips. Amendment 14 also expanded sampling requirements to assist observers in the successful and complete collection of data on observed trips, and instituted a prohibition on slippage on observed mackerel trips.

In addition, the Council and NMFS are moving forward with the development of actions to address the disapproved observer coverage measures and the slippage cap. To address the disapproved observer coverage measures, NMFS has taken the lead on an omnibus amendment that would create the framework for industry-funded monitoring programs for all Northeast FMPs. The amendment will activate industry-funded observer coverage when NMFS has funding available to cover its costs to administer these programs. The omnibus amendment also includes coverage targets for the Atlantic mackerel fishery.

To address the disapproved slippage cap, the Council recently took final action on Framework Adjustment 9 to the MSB FMP at its February 2014 meeting. The Council selected an alternative that would require vessels to return to port if they release catch prior to making it available for sampling by an observer for reasons other than safety concerns, mechanical failure, or dogfish clogging the pump. The Council is finalizing the analysis supporting its recommendation, after which it will submit Framework 9 for NMFS review.

*Comment 16:* The Herring Alliance commented that, even with 100-percent coverage, slippage would hinder the goals of the cap by skewing observer and landings data. They cited the midwater trawl CA I provisions again in saying that NMFS has already acknowledged that accurate catch composition records cannot be obtained for dumped catch (75 FR 73979, November 30, 2010). In addition, the Herring Alliance asserted that NMFS documented slippage as a problem that directly affects the administration of the butterfish mortality cap on the longfin squid fishery, where longfin squid hauls have been slipped due to the presence of butterfish.

*Response:* NMFS agrees with the commenter that the best way to obtain catch composition information is through full sampling of hauls by observers. As noted in the previous response, NMFS will address the issue of discarding of unsampled catch on observed trips by implementing a prohibition on slippage through Amendment 14. In addition, the Council recently took final action on a measure to further deter slippage events. NMFS believes that these requirements should improve the quality of data used to estimate the RH/S catch caps.

NMFS reiterates that the slippage prohibition and the requirement that captains submit released catch affidavit to document all slippage events (also implemented in Amendment 14) are also a requirement for longfin squid permit holders, which can help address any issues with the administration of the butterfish mortality cap that may have resulted from past slippage events.

*Comment 17:* Wild Oceans expressed disappointment that NMFS representative who participated in MSB Amendment 14 did not, in their view, proactively help the Council resolve the agency's concerns about observer coverage and slippage. They praised the Mid-Atlantic Council for continuing to pursue these issues in new actions in spite of the disapprovals, and encouraged NMFS to work constructively with the Council to improve monitoring of the mackerel fishery.

*Response:* This comment misrepresents the events that led up to the partial approval of Amendment 14. NMFS staff provided guidance and input on Amendment 14 throughout the process and warned the Council of the problems associated with its observer coverage and slippage alternatives on several occasions. NMFS has clearly explained the reasons for disapproving measures in Amendment 14 (79 FR 10029; February 24, 2014) and that discussion is not included in this rule. NMFS is working with Council to resolve the issues and has taken the lead on resolving the observer coverage issues disapproved in Amendment 14.

*Comment 18:* The NRDC, Pew, the Herring Alliance, CCCFA, and ACN supported transitioning towards a biologically based cap on RH/S as soon as possible. The Herring Alliance and Pew went on to say that a biologically based cap should include an analysis of the status of river populations of RH/S in discrete geographic regions, and should also account for directed and incidental catch of RH/S in state waters. The Herring Alliance and Pew also advocated for review of the cap by the Council's SSC to improve oversight of cap determination, and that there be an annual review of the cap, similar to the review conducted on the butterfish mortality cap on the longfin squid fishery.

*Response:* Both NMFS and the Council would like to move towards a biologically based RH/S catch cap as soon as possible. As noted above, NMFS plans to work with state and Federal partners over the coming 3–5 years to support research that will fill important data gaps that limited recent assessments for these species. In addition, the Council has already indicated it is interested in involving its SSC in the determination of RH/S catch caps in the future. In the meantime, the cap will be reviewed annually during the specifications setting process, and the best available scientific information will be used to adjust the cap level. The annual evaluation and re-specification of the cap may include certain elements of the periodic reviews done for the butterfish mortality cap on the longfin squid fishery, including estimates of scientific uncertainty of the catch cap estimate, and estimates of RH/S mortality in the mackerel fishery.

The ASMFC continues to manage RH/S catch in state waters. At this time, there is no coordination between the Federal cap on RH/S in the mackerel fishery, and catch limits in state waters set by the ASMFC. As noted in the Council analysis for 2014 specifications, Council and NMFS technical staffs continue to investigate the application of a regional cap spanning multiple fisheries and jurisdictions. However, the scope of this action and Amendment 14 are limited to RH/S catch in the mackerel fishery.

*Comment 19:* While they support implementation of the cap, Wild Oceans and the Herring Alliance asserted that a more effective cap, in terms of reducing mortality, would have been set at the median of recent actual RH/S catch, rather than what catch would have been had the mackerel fishery landed its full quota from 2005–2012. The Herring Alliance went further in suggesting that NMFS should scale back catch based on the advice in the NMFS report for data poor stocks, and that the cap should be adjusted annually as scientific information becomes available through

better monitoring, in accordance with National Standard 2.

*Response:* The Council and NMFS are committed to minimizing RH/S encounters in the mackerel fishery. However, data do not appear to be robust enough to determine a biologically based catch cap for RH/S, and/or the potential effects on these populations if a catch cap is implemented on a coast-wide scale. Given these limitations, the Council chose to balance its goal of minimizing RH/S catch in the mackerel fishery, with the goal of allowing the mackerel fishery the potential to attain its full quota. The Council's preferred 2014 RH/S catch cap of 236 mt is reflective of these goals.

The commenters reference NOAA Technical Memorandum NMFS–SEFSC–616 (Calculating Acceptable Biological Catch for Stocks that Have Reliable Catch Data Only (Only Reliable Catch Stocks—ORCS; 2011)). The memorandum was developed by a Working Group comprised of representatives from seven of the eight SSCs, five of the six NMFS Science Centers, NMFS Headquarters, academic institutions, a state agency, and an NGO to offer guidance that can be used to set ABCs for managed stocks that only have reliable catch data, are lightly fished, and appear to have stable or increasing trends. The report recommends doubling catch during a stable period to create an OFL, setting the ABC at 50 to 90 percent of the OFL, and then tracking the stock to see how the adjusted catch levels affect abundance. The Council did not evaluate the appropriateness of this method for establishing the 2014 RH/S cap because RH/S are not managed species, and because the focus of the cap is limiting RH/S catch in the mackerel fishery rather than the establishment of total catch levels for the entire RH/S stock. Instead, the Council found it most appropriate to set the cap based on recent catch in the mackerel fishery. The Council may choose to consider the applicability of the guidance in the ORCS Technical Memorandum when setting the RH/S catch cap in future years, if it desires.

*Comment 20:* While they supported the 95-percent closure threshold, the Herring Alliance and Pew point to analysis in Amendment 14 that suggests that earlier closures of the mackerel fishery could lead to relatively higher benefits to RH/S populations. They discussed that the 95-percent threshold will need to be evaluated based on fishery performance, and if the cap is exceeded, that the threshold must be adjusted to prevent the mackerel fishery from exceeding the cap in the future. They asserted that a lower threshold may be needed if observer coverage is not available to accurately monitor the cap.

*Response:* The Amendment 14 analysis discusses the RH/S cap conceptually because the actual establishment of the RH/S cap was deferred to the annual specifications process. In evaluating the concept of the cap, the Council concluded that, compared to setting the cap at a high level, setting the cap lower could result in earlier closures of the mackerel fishery, which could lead to comparatively higher benefits to RH/S populations. In contrast, the commenters imply that the Council's Amendment 14 analysis suggests that lower closure thresholds, rather than a lower overall cap level, would lead to higher benefits for RH/S. Lowering the closure threshold would have the same effect as lowering the overall cap, and thus is likely to result in similar potential benefits to RH/S populations. However, the closure threshold is only a means to ensuring that the overall cap is not exceeded. The overall cap should be set to reach the desired conservation benefit, and the closure threshold should be set secondarily in support of ensuring the cap is not exceeded. The Council will likely evaluate the effectiveness of the closure threshold in ensuring that the cap is not exceeded, and make any necessary adjustments, as part of the specifications process for upcoming fishing years. At that time, the Council can also evaluate whether observer coverage levels are sufficient to monitor the cap, and may recommend additional management measures to ensure appropriate cap implementation.

*Comment 21:* The Herring Alliance suggests that, as an accountability measure, any overages of the RH/S catch cap in a given year should be deducted from the catch cap for the subsequent year, but that underages of the catch cap should not be carried over.

*Response:* The Council did not contemplate accountability measures for the RH/S cap in Amendment 14 or the 2014 specifications, and would need to consider this type of measure in a separate action.

*Comment 22:* Pew and the Herring Alliance advocate for coordination between the RH/S caps between the mackerel and herring fisheries. In particular, they suggest that the implementing language should be revised so that measures apply to trips ''fishing for, catching, possessing, transferring, or landing'' the specified amount of mackerel to be consistent with the Atlantic Herring FMP.

*Response:* NMFS has added text to the regulations to clarify that the cap applies to trips that land over 20,000 lb (9.08 mt) of mackerel. The commenter referenced language in the Atlantic Herring FMP that describes the possession restrictions for fishing vessels following a closure of the directed herring fishery. Similar language (e.g., fish for, possess, or land) is already used to describe possession restrictions for the Atlantic mackerel fishery at § 648.26(a)(2).

*Comment 23:* Several individuals commented that the relationship between predator species and RH/S should be more fully considered and analyzed. While some focused on making commercial mackerel fishery restrictions more similar to recreational measures (bans on fishing, regional caps), others noted that the actions for commercial fisheries should take into account the impacts on recreational fisheries. One commenter noted that NMFS should consider the impacts on tourism and the overall economy.

*Response:* NMFS recognizes these concerns but notes that such analyses and holistic consideration stretch beyond the capabilities of current analytical tools and the mandates of the MSA. Through Federal fishery management plans, we are responsible for managing fisheries to OY, which is the maximum yield one can harvest while taking into account ecological factors such as habitat protection, bycatch considerations, and to the extent we understand it, the ecological role of the managed species. The relationships between commercial and recreational fisheries are complex; the economic relationships even more so. Nevertheless, NMFS strives to improve its data and understanding of such relationships. With more understanding, more holistic analyses may be possible in the future.

**Changes From the Proposed Rule**

The proposed rule presented two tables (Tables 4 and 5 in the proposed rule) listing quota thresholds to reduce the trip limits for Phases 2 and 3 in the butterfish fishery. Though the tables presented the correct butterfish harvest amounts at which trip limit changes would be triggered, the tables incorrectly listed the percentages for the trip limit reductions. The correct percentages are presented in Tables 4 and 5 in this final rule, and will be presented to industry in the small entity compliance guide sent to longfin squid/butterfish permit holders after the publication of this final rule.

The proposed rule did not include regulatory text that clearly outlines the trips to which the RH/S cap apply. Similarly, the regulatory text regarding

the butterfish mortality cap did not clearly state the trips to which the cap applies. Clarifying text is added for both caps in this rule.

**Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator (AA) has determined that this final rule is consistent with the MSB FMP, other provisions of the Magnuson-Stevens Act, and other applicable laws.

The Council prepared an EA for the 2014 specifications, and the AA concluded that there will be no significant impact on the human environment as a result of this rule. A copy of the EA is available upon request (see **ADDRESSES**).

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866 (E.O. 12866).

The AA finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for this action. This action increases the butterfish harvest available to the fishing industry for FY 2014. The primary butterfish market available to the butterfish fishing industry occurs in late December through April due to the high fat content of the fish after feeding during the early winter. Under the 2013 butterfish allocations, the Phase 2 trip limit reduction threshold is exceeded when the fishery has landed 47 percent of the 2013 allocation (1,208 mt) of the butterfish allocation in March/April. Once the Phase 2 trip limit reduction threshold is exceeded, the butterfish possession limit is reduced from unlimited down to 5,000 lb (2.28 mt). The 2014 butterfish allocations increase the Phase 2 trip limit reduction threshold to 57 percent of the 2014 butterfish allocation (1,838 mt) for March/April.

NMFS has already issued a Phase 1 to Phase 2 trip limit reduction on March 18, 2014. As of March 26, 2014, NMFS determined that only 45 percent of the butterfish quota has been harvested relative to the 2014 specifications, meaning that the fishery could still be operating under Phase 1 for 2014. If the effectiveness of this rule were delayed for 30 days from the date of publication, the possession limit for butterfish would remain at 5,000 lb (2.28 mt) at a time of year when the value of butterfish is highest. Increasing the Phase 2 trip limit reduction threshold immediately will allow NMFS to temporarily return the butterfish fishery to Phase 1, and ensures that the butterfish fleet can continue operation with the highest possible possession limit during this critical time of year when the market is available. Vessels fishing for butterfish would only be able to obtain the increased economic opportunity provided by this final rule if the 30-day delay in effectiveness is waived. Failure to make this final rule effective immediately will cause economic harm to the butterfish fleet and undermine the intent of the rule, which is to promote the utilization and conservation of the Atlantic mackerel, squid, and butterfish resource. Therefore, good cause exists to waive the 30-day delay in effectiveness under 5 U.S.C. Section 553(d)(3).

NMFS, pursuant to section 604 of the Regulatory Flexibility Act, has prepared a FRFA, included in the preamble of this final rule, in support of the 2013 specifications and management measures. The FRFA describes the economic impact that this final rule, along with other non-preferred alternatives, will have on small entities.

The FRFA incorporates the economic impacts and analysis summaries in the IRFA, a summary of the significant issues raised by the public in response to the IRFA, and NMFS's responses to those comments. A copy of the IRFA, the RIR, and the EA are available upon request (see **ADDRESSES**).

*Statement of Need for This Action*

This action establishes 2014 specifications for butterfish, along with management measures for the longfin squid, butterfish, and mackerel fisheries. A complete description of the reasons why this action was considered, and the objectives of and legal basis for this action, are contained in the preamble to this rule and are not repeated here.

*A Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA, a Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments*

None of the public comments raised issues related to the IRFA or the economic impacts of the rule on affected entities.

*Description and Estimate of Number of Small Entities To Which the Rule Will Apply*

On June 20, 2013, the Small Business Administration (SBA) issued a final rule revising the small business size standards for several industries effective July 22, 2013 (78 FR 37398). The rule increased the size standard for Finfish Fishing from $4.0 to $19.0 million, Shellfish Fishing from $4.0 to $5.0 million, and Other Marine Fishing from $4.0 to $7.0 million. NMFS has reviewed the analyses prepared for this action in light of the new size standards. Under the former, lower size standards, all entities subject to this action were considered small entities, thus they all would continue to be considered small under the new standards.

The proposed measures in the 2014 MSB Specifications and Management Measures could affect any vessel holding an active Federal permit to fish for Atlantic mackerel, longfin squid, *Illex* squid, or butterfish. Having different size standards for different types of marine fishing activities creates difficulties in categorizing businesses that participate in more than one of these activities. For now, the short-term approach is to classify a business entity into the SBA defined categories based on which activity produced the highest gross revenue. In this case, Atlantic mackerel is the only species with significant recreational fishing, and in 2012, the charter boat industry harvested only 10,000 lb (4.54 mt). Based on these assumptions, the finfish size standard would apply, and the business is considered large, only if revenues are greater than $19 million. As such, all of the potentially affected businesses are considered small entities under the standards described in NMFS guidelines, because they have gross receipts that do not exceed $19 million annually. Based on permit data for 2013, 2,441 commercial or charter vessels possessed MSB permits for FY 2013, and similar numbers of vessels are expected to have MSB permits for 2014. Many vessels participate in more than one of these fisheries; therefore, permit numbers are not additive.

Although it is possible that some entities, based on rules of affiliation, would qualify as large business entities, due to lack of reliable ownership affiliation data NMFS cannot apply the business size standard at this time. NMFS is currently compiling data on vessel ownership that should permit a more refined assessment and determination of the number of large and small entities for future actions. For this action, since available data are not adequate to identify affiliated vessels, each operating unit is considered a small entity for purposes of the RFA, and, therefore, there is no differential impact between small and large entities. Therefore, there are no disproportionate economic impacts on small entities. Section 6.7 in Amendment 14 describes the vessels, key ports, and revenue information for the MSB fisheries; therefore, that information is not repeated here.

*Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action. In addition, there are no Federal rules that duplicate, overlap, or conflict with this rule.

*Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impacts on Small Entities Consistent With the Stated Objectives of Applicable Statutes, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Final Rule and Why Each One of the Other Significant Alternatives to the Rule Considered by the Agency Which Affect the Impact on Small Entities Was Rejected*

**Actions Implemented With the Final Rule**

The RH/S catch cap in the mackerel fishery has the potential to limit the fishery from achieving its full mackerel quota if the RH/S encounter rates are high, but it is very unlikely that the fishery would close before exceeding the levels of landings experienced since 2010, when landings have been less than 11,000 mt. Limiting catches of RH/S has the potential to benefit those species, although the extent of this benefit is unknown because overall abundance information for these species is not available.

The butterfish DAH implemented in this action (3,200 mt) represents a 24-percent increase over the 2013 DAH (2,570 mt). The increase in the DAH has the potential to slightly increase revenue for permitted vessels.

This action also implements slightly higher trip limit in Phase 3 of the directed butterfish fishery, in order to simplify the regulations and have this limit match the incidental trip limit of 600 lb (0.27 mt). This increase should also have positive economic impacts on the fishery.

The only adjustment to the longfin squid fishery is an increase to the Trimester II longfin squid post-closure possession limit for longfin squid/butterfish moratorium permit holders from 2,500 lb (1.13 mt) to 15,000 lb (6.80 mt) for vessels targeting *Illex.* This measure should reduce regulatory discarding and provide a small amount of additional revenue; thus, it would have positive economic impacts to the *Illex* fishery.

**Alternatives to Actions in the Final Rule**

The Council analysis evaluated four alternatives to the specifications for butterfish. Of the three the Council did not select, two alternatives would have resulted in lower 2014 specifications. The first of these is the No Action alternative (status quo), which would have set the butterfish ABC at 8,400 mt and resulted in an ACT of 7,560 mt, a DAH and DAP of 2,570 mt, and a butterfish mortality cap at 3,884 mt. The other alternative (the most restrictive) would have set the ABC at 25 percent lower than the proposed alternative (6,825 mt), resulting in an ACT of 6,143 mt, a DAH and DAP of 2,400 mt, and a butterfish mortality cap at 2,913 mt. These alternatives could generate the lowest revenues of all of the considered alternatives. The fourth alternative (the least restrictive) would have set the ABC at 25 percent higher than the proposed alternative (11,375 mt), resulting in an ACT of 10,238 mt, a DAH and DAP of 5,248 mt, and a butterfish mortality cap at 3,884 mt. This alternative could generate increased revenue if more butterfish became available to the fishery. These three alternatives were not selected because they were all inconsistent with the ABC recommended by the SSC.

The Council considered four alternatives for the RH/S catch cap in the mackerel fishery. Aside from the No Action (status quo) alternative, which would not have implemented a catch cap in the fishery because there is currently no cap in place, the Council considered one alternative that would have set the RH/S catch cap at 119 mt (most restrictive) and one alternative that would have set the RH/S catch cap at 456 mt (least restrictive). If the catch cap were set at 119 mt, there would be the greatest likelihood that the cap level could restrict mackerel fishing, whereas setting the RH/S cap at 456 mt would be the least likely to be restrictive. Any cap would be more likely to close the fishery compared to no cap (status quo), the selected alternative (RH/S cap of 236 mt) would most likely assist in the recovery of RH/S stocks while allowing the mackerel fishery to continue, assuming low RH/S catch rates.

With regards to matching Phase 3 and the incidental trip limits in the butterfish fishery, the Council considered two other alternatives in addition to the selected alternative (i.e., increasing the Phase 3 trip limit from 500 lb (0.23 mt) to 600 lb (0.27 mt), to match the incidental limit). One alternative was the No Action alternative, which would have unnecessarily continued the regulatory confusion by requiring two different possession limits based on permit type. The other alternative would have lowered the incidental limit to 500 lb (0.23 mt) to match the current Phase 3 limit, which potentially could have the effect of converting currently retained butterfish catch into discards. The selected alternative resolves this confusion over different trip limits, while continuing to discourage directed fishing.

The Council considered three alternatives related to the post-closure possession limit of longfin squid in the *Illex* fishery. The most restrictive alternative considered was the No Action (status quo) alternative, which would continue the current longfin squid trip limit of 2,500 lb (1.13 mt) in Trimester 3. The selected alternative, which would increase the possession limit to 15,000 lb (6.80 mt), is the least restrictive alternative. The other alternative considered would have increased the longfin squid possession limit to 10,000 lb (4.54 mt). Compared to the other two alternatives, the status quo alternative would continue to result in high levels of regulatory discards of longfin squid and would result in lower revenues than the other alternatives considered. Although the other two alternatives would both result in previously discarded longfin squid being landed, the selected alternative, with its higher possession limit, results in the highest potential revenue.

**List of Subjects in 50 CFR part 648**

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: March 31, 2014.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

## PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

■ 2. In § 648.23, paragraph (a)(3) is revised and paragraph (a)(4) is added to read as follows:

**§ 648.23 Mackerel, squid, and butterfish gear restrictions.**

* * * * *

(a) * * *

(3) *Illex fishery.* Seaward of the following coordinates, connected in the

order listed by straight lines except otherwise noted, otter trawl vessels possessing longfin squid harvested in or from the EEZ and fishing for *Illex* during the months of June, July, August, in Trimester II, and September in Trimester III are exempt from the longfin squid gear requirements specified in paragraph (a)(2) of this section, provided that landward of the specified coordinates they do not have available for immediate use, as defined in paragraph (b) of this section, any net, or any piece of net, with a mesh size less than 1⅞ inches (48 mm) diamond mesh in Trimester II, and 2⅛ inches (54 mm) diamond mesh in Trimester III, or any piece of net, with mesh that is rigged in a manner that is prohibited by paragraph (a)(2) of this section.

| Point | N. lat. | W. long. |
|---|---|---|
| M0 | 43°58.0′ | [1] |
| M1 | 43°58.0′ | 67°22.0′ |
| M2 | 43°50.0′ | 68°35.0′ |
| M3 | 43°30.0′ | 69°40.0′ |
| M4 | 43°20.0′ | 70°00.0′ |
| M5 | 42°45.0′ | 70°10.0′ |
| M6 | 42°13.0′ | 69°55.0′ |
| M7 | 41°00.0′ | 69°00.0′ |
| M8 | 41°45.0′ | 68°15.0′ |
| M9 | 42°10.0′ | 67°10.0′ [2] |
| M10 | 41°18.6′ | 66°24.8′ [2] |
| M11 | 40°55.5′ | 66°38.0′ |
| M12 | 40°45.5′ | 68°00.0′ |
| M13 | 40°37.0′ | 68°00.0′ |
| M14 | 40°30.0′ | 69°00.0′ |
| M15 | 40°22.7′ | 69°00.0′ |
| M16 | 40°18.7′ | 69°40.0′ |
| M17 | 40°21.0′ | 71°03.0′ |
| M18 | 39°41.0′ | 72°32.0′ |
| M19 | 38°47.0′ | 73°11.0′ |
| M20 | 38°04.0′ | 74°06.0′ |
| M21 | 37°08.0′ | 74°46.0′ |
| M22 | 36°00.0′ | 74°52.0′ |
| M23 | 35°45.0′ | 74°53.0′ |
| M24 | 35°28.0′ | 74°52.0′ |
| M25 | 35°28.0′ | [3] |

[1] The intersection of 43°58.0′N. latitude and the US-Canada Maritime Boundary.

[2] Points M9 and M10 are intended to fall along and are connected by the US-Canada Maritime Boundary.

[3] The intersection of 35°28.0′N. latitude and the outward limit of the U.S. EEZ.

(4) *Mackerel, squid, and butterfish bottom trawling restricted areas.* (i) *Oceanographer Canyon.* No permitted mackerel, squid, or butterfish vessel may fish with bottom trawl gear in the Oceanographer Canyon or be in the Oceanographer Canyon unless transiting. Vessels may transit this area provided the bottom trawl gear is stowed in accordance with the provisions of paragraph (b) of this section. Oceanographer Canyon is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

**Oceanographer Canyon**

| Point | N. lat. | W. long. |
|---|---|---|
| OC1 | 40°10.0′ | 68°12.0′ |
| OC2 | 40°24.0′ | 68°09.0′ |
| OC3 | 40°24.0′ | 68°08.0′ |
| OC4 | 40°10.0′ | 67°59.0′ |
| OC1 | 40°10.0′ | 68°12.0′ |

(ii) *Lydonia Canyon.* No permitted mackerel, squid, or butterfish vessel may fish with bottom trawl gear in the Lydonia Canyon or be in the Lydonia Canyon unless transiting. Vessels may transit this area provided the bottom trawl gear is stowed in accordance with the provisions of paragraph (b) of this section. Lydonia Canyon is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

**Lydonia Canyon**

| Point | N. lat. | W. long. |
|---|---|---|
| LC1 | 40°16.0′ | 67°34.0′ |
| LC2 | 40°16.0′ | 67°42.0′ |
| LC3 | 40°20.0′ | 67°43.0′ |
| LC4 | 40°27.0′ | 67°40.0′ |
| LC5 | 40°27.0′ | 67°38.0′ |
| LC1 | 40°16.0′ | 67°34.0′ |

* * * * *

■ 3. In § 648.24, paragraphs (b)(1), (c)(1)(iii) and (c)(3) are revised and paragraph (b)(6) is added to read as follows:

**§ 648.24 Fishery closures and accountability measures.**

* * * * *

(b) * * *

(1) * * *

(i) *Mackerel commercial sector EEZ closure.* NMFS will close the commercial mackerel fishery in the EEZ when the Regional Administrator projects that 95 percent of the mackerel DAH is harvested, if such a closure is necessary to prevent the DAH from being exceeded. The closure of the commercial fishery shall be in effect for the remainder of that fishing year, with incidental catches allowed as specified in § 648.26. When the Regional Administrator projects that the DAH for mackerel will be landed, NMFS shall close the commercial mackerel fishery in the EEZ, and the incidental catches specified for mackerel in § 648.26 will be prohibited.

(ii) NMFS will close the Tier 3 commercial mackerel fishery in the EEZ when the Regional Administrator projects that 90 percent of the Tier 3 mackerel allocation will be harvested, if such a closure is necessary to prevent the DAH from being exceeded. The closure of the Tier 3 commercial mackerel fishery will be in effect for the remainder of that fishing period, with incidental catches allowed as specified in § 648.26.

* * * * *

(6) *River herring and shad catch cap.* The river herring and shad cap on the mackerel fishery applies to all trips that land more than 20,000 lb (9.08 mt) of mackerel. NMFS shall close the directed mackerel fishery in the EEZ when the Regional Administrator projects that 95 percent of the river herring/shad catch cap has been harvested. Following closures of the directed mackerel fishery, vessels must adhere to the possession restrictions specified in § 648.26.

(c) * * *

(1) * * *

(iii) *Phase 3.* NMFS shall subsequently reduce the trip limit for vessels issued longfin squid/butterfish moratorium permits to 600 lb (0.27 mt), regardless of minimum mesh size, when butterfish harvest is projected to reach the relevant phase 3 trip limit reduction threshold. The NMFS Regional Administrator may adjust the butterfish trip limit during phase 3 of the directed butterfish fishery anywhere from 250 lb (0.11 mt) to 750 lb (0.34 mt) to ensure butterfish harvest does not exceed the specified DAH.

* * * * *

(3) *Butterfish mortality cap on the longfin squid fishery.* The butterfish mortality cap on the longfin squid fishery applies to all trips that land more than 20,000 lb (9.08 mt) of mackerel. NMFS shall close the directed fishery in the EEZ for longfin squid when the Regional Administrator projects that 80 percent of the Trimester I butterfish mortality cap allocation has been harvested in Trimester I, when 75 percent of the annual butterfish mortality cap has been harvested in Trimester II, and/or when 90 percent of the butterfish mortality cap has been harvested in Trimester III. Following closures of the directed longfin squid fishery, vessels must adhere to the possession restrictions specified in § 648.26.

* * * * *

■ 4. In § 648.26, paragraphs (a)(1)(iii), (b) and (d)(3) are revised to read as follows:

**§ 648.26 Mackerel, squid, and butterfish possession restrictions.**

* * * * *

(a) * * *

(1) * * *

(iii) A vessel issued a Tier 3 Limited Access Mackerel Permit is authorized to fish for, possess, or land up to 100,000 lb (45.36 mt) of Atlantic mackerel in the EEZ per trip, and may only land Atlantic mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours, provided that the fishery has not been closed because 90 percent of the Tier 3 allocation has been harvested, or 95 percent of the DAH has been harvested, as specified in § 648.24(b)(1)(i) and (ii).

* * * * *

(b) *Longfin squid.* (1) Unless specified in paragraph (b)(2) of this section, during a closure of the directed fishery for longfin squid vessels may not fish for, possess, or land more than 2,500 lb (1.13 mt) of longfin squid per trip at any time, and may only land longfin squid once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours. If a vessel has been issued a longfin squid incidental catch permit (as specified at § 648.4(a)(5)(ii)), then it may not fish for, possess, or land more than 2,500 lb (1.13 mt) of longfin squid per trip at any time and may only land longfin squid once on any calendar day, unless such a vessel meets the criteria outlined in paragraph (b)(2) of this section.

(2) During a closure of the directed fishery for longfin squid for Trimester II, a vessel with a longfin squid/butterfish moratorium permit that is on a directed *Illex* squid fishing trip (i.e., possess over 10,000 lb (4.54 mt) of *Illex*) and is seaward of the coordinates specified at § 648.23 (a)(3), may possess up to 15,000 lb (6.80 mt) of longfin squid. Once landward of the coordinates specified at § 648.23 (a)(3), such vessels must stow all fishing gear, as specified at § 648.23(b), in order to possess more than 2,500 lb (1.13 mt) of longfin squid per trip.

* * * * *

(d) * * *

(3) *Phase 3.* When butterfish harvest is projected to reach the trip limit reduction threshold for phase 3 (as described in § 648.24), all vessels issued a longfin squid/butterfish moratorium permit, regardless of mesh size used, may not fish for, possess, or land more than 600 lb (0.27 mt) of butterfish per trip at any time, and may only land butterfish once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours. If a vessel has been issued a longfin squid/butterfish incidental catch permit (as specified at § 648.4(a)(5)(ii)), it may not fish for, possess, or land more than 600 lb (0.27 mt) of butterfish per trip at any time.

[FR Doc. 2014–07610 Filed 4–3–14; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 648

**[Docket No. 130903775–4276–02]**

**RIN 0648–XD205**

## Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Phase 1 Reopening for the Directed Butterfish Fishery

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule.

**SUMMARY:** NMFS announces that phase 1 of the directed butterfish fishery will be reopened to provide the opportunity for vessels targeting butterfish to fish with a higher possession limit. Vessels issued a longfin squid/butterfish moratorium permit may fish for, catch, possess, or land unlimited amounts of butterfish when using greater than or equal to 3-inch (76-mm) mesh. The possession limit remains 2,500-lb (1.13 mt) per trip or calendar day for vessels fishing less than 3-inch (76-mm) mesh. The incidental possession limit also remains unchanged at 600 lb (0.27 mt).

**DATES:** Effective April 4, 2014, through December 31, 2014.

**FOR FURTHER INFORMATION CONTACT:** Aja Szumylo, Fishery Policy Analyst, 978–281–9195, Fax 978–281–9135.

**SUPPLEMENTARY INFORMATION:**

Regulations at 50 CFR part 648 govern the butterfish fishery. The regulations require specifications for maximum sustainable yield, initial optimum yield, allowable biological catch, annual catch limit (ACL), domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing, and total allowable levels of foreign fishing for the species managed under the Atlantic Mackerel, Squid, and Butterfish (MSB) Fishery Management Plan (FMP). The procedures for setting the annual initial specifications are described in § 648.22.

Due to the increase in the butterfish DAH from previous years, the 2013 MSB specifications implemented a 3-phase butterfish management system to allow for maximum utilization of the butterfish resource without exceeding the stock-wide ACL. In phase 1, there is no trip limit for vessels issued longfin squid/butterfish moratorium permits using mesh greater than or equal to 3 inches (76 mm), a 2,500-lb (1.13-mt) trip limit for longfin squid/butterfish moratorium permits using mesh less than 3 inches (76 mm), and a trip limit of 600 lb (0.27 mt) for vessels issued squid/butterfish incidental catch permits. Once butterfish harvest reaches the trip hold reduction threshold to move from phase 1 to phase 2, the trip limit for longfin squid/butterfish moratorium permit holders will be reduced while in phase 2 to 5,000 lb (2.27 mt) for vessels using greater than or equal to 3-inch (7.62 cm) mesh. The limit remains unchanged at 2,500-lb (1.13 mt) per trip or calendar day for vessels issued a Federal longfin squid/butterfish moratorium permits and fishing with less than 3-inch (76-mm); and the incidental limit remains at 600 lb (0.27 mt). When we project butterfish harvest to reach the trip hold reduction thresholds to move from phase 2 to phase 3, the trip limit for all longfin squid/butterfish moratorium permit holders will be reduced while in phase 3 to 500 lb (0.23 mt) to avoid quota overages. For phases 2 and 3, the quota thresholds to reduce the trip limits will vary bimonthly throughout the year.

The 2013 MSB specifications set the 2013 butterfish DAH at 2,570 mt (77 FR 3346, January 16, 2013). The regulations at § 648.22(d) state that, if annual specifications for the MSB fisheries are not published in the **Federal Register** prior to the start of the fishing year (January 1), the previous year's annual specifications, will remain in effect. On March 18, 2014 (79 FR 15046), NMFS announced a trip limit reduction for the butterfish fishery based on the phase 2 trip limit reduction threshold for the 2013 butterfish quota.

The final rule for 2014 MSB specifications and management measures is published elsewhere in this issue. The 2014 butterfish specifications were implemented upon publication of that action, and immediately superseded the 2013 specifications. The 2014 butterfish specifications increase the butterfish quota by 630 mt. Relative to the increased 2014 butterfish quota, only 45 percent of the butterfish quota has been harvested. Because the 2014 March/April phase 2 trip limit reduction threshold for butterfish is 57 percent, effective April 4, 2014, the butterfish fishery can return to phase 1. Longfin squid/butterfish moratorium permit holders using mesh sizes greater than 3 inches (76 mm) may fish for,

catch, possess, or land unlimited amounts of butterfish until the phase 2 trip limit reduction threshold is triggered. The trip limits for vessels issued longfin squid/butterfish moratorium permits fishing with mesh less than 3 inches (76 mm) will remain at 2,500 lb (1.13 mt) of butterfish per trip and the incidental trip limit will remain at 600 lb (0.27 mt). When butterfish harvest is projected to reach the phase 2 trip limit reduction threshold specified for 2014, butterfish trip limits for longfin squid/butterfish moratorium permit holders will be reduced to 5,000 lb (2.27 mt) for vessels fishing with mesh sizes greater than 3 inches (76 mm), through a subsequent action in the **Federal Register.**

### Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. This action reopens the phase 1 of the directed butterfish fishery until the 2014 phase 2 trip limit reduction threshold is reached. If implementation of this reopening was delayed to solicit prior public comment, vessels would be prevented from fishing with a higher possession limit and may not be able to fully harvest the 2014 butterfish quota, thereby undermining the conservation objectives of the FMP. The AA further finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reason stated above.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: April 1, 2014.

**James P. Burgess,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2014–07612 Filed 4–3–14; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No. 130925836–4174–02]**

**RIN 0648–XD225**

## Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Trawl Catcher Vessels in the Central Regulatory Area of the Gulf of Alaska

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by catcher vessels using trawl gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2014 Pacific cod total allowable catch apportioned to trawl catcher vessels in the Central Regulatory Area of the GOA.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), April 1, 2014, through 1200 hours, A.l.t., June 10, 2014.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The A season allowance of the 2014 Pacific cod total allowable catch (TAC) apportioned to trawl catcher vessels in the Central Regulatory Area of the GOA is 8,249 metric tons (mt), as established by the final 2014 and 2015 harvest specifications for groundfish of the GOA (79 FR 12890, March 6, 2014).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the A season allowance of the 2014 Pacific cod TAC apportioned to trawl catcher vessels in the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 7,749 mt and is setting aside the remaining 500 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels using trawl gear in the Central Regulatory Area of the GOA. After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of Pacific cod by catcher vessels using trawl gear in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 31, 2014.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: April 1, 2014.

**James P. Burgess,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2014–07578 Filed 4–1–14; 4:15 pm]

**BILLING CODE 3510–22–P**

# Proposed Rules

Federal Register
Vol. 79, No. 65
Friday, April 4, 2014

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2014–0177; Directorate Identifier 2013–NM–189–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Dassault Aviation Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Dassault Aviation Model FALCON 7X airplanes. This proposed AD was prompted by a report of a crew alerting system message caused by an inversion of the wiring in the slats control manifold (SCM). This proposed AD would require doing an operational test of the SCM, and replacing the affected SCM with a serviceable SCM if necessary. We are proposing this AD to detect and correct inversion of the wiring in the SCM, which could lead to a commanded retraction of the median and outboard slats in flight, and result in reduced controllability of the airplane.

**DATES:** We must receive comments on this proposed AD by May 19, 2014.

**ADDRESSES:** You may send comments by any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Fax: (202) 493–2251.
- Mail: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- Hand Delivery: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0177; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Tom Rodriguez, Aerospace Engineer, International Branch, ANM 116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0177; Directorate Identifier 2013–NM–189–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

### Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2013–0195, dated August 27, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Dassault Aviation Model FALCON 7X airplanes. The MCAI states:

> During a ferry flight, the crew of a Falcon 7X aeroplane reported a Crew Alerting System Message ''FCS—SLATS INB EXTEND FAIL'' with associated fault code and root cause: ''FCS SEC FCS fault/SFCI3 fault''. The crew applied the applicable Aircraft Flight Manual procedure and the aeroplane landed uneventfully.
>
> The results of the manufacturer technical investigations concluded that the cause of this event was an inversion of the wiring in the slats control manifold (SCM).
>
> This condition, if not detected and corrected, could lead to un-commanded retraction of the median and outboard slats in flight, resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, Dassault Aviation issued Service Bulletin (SB) F7X–244, with instructions for an operational test of the SCM.
>
> For the reasons described above, this [EASA] AD requires an operational test of the SCM and, depending on findings, accomplishment of the applicable corrective actions [replacing the affected SCM with a serviceable SCM if necessary].

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0177.

### Relevant Service Information

Dassault Aviation has issued Service Bulletin 7X–244, Revision 1, dated July 8, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

### FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified

of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

**Costs of Compliance**

We estimate that this proposed AD affects 42 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Operational Test of the Slats Control Manifold | 1 work-hour × $85 per hour = $85 | $0 | $85 | $3,570 |

We estimate the following costs to do any necessary replacement that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need this replacement:

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Replacement | 13 work-hours × $85 per hour = $1,105 | $0 | $1,105 |

**Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

**Regulatory Findings**

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

**The Proposed Amendment**

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**Dassault Aviation:** Docket No. FAA–2014–0177; Directorate Identifier 2013–NM–189–AD.

**(a) Comments Due Date**

We must receive comments by May 19, 2014.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Dassault Aviation Model FALCON 7X airplanes, certificated in any category, manufacturer serial numbers 2 through 101 inclusive; 105, 106, 108 through 140 inclusive; 142 through 148 inclusive; 150 through 153 inclusive; 155, 156, 158, 162 through 164 inclusive; and 167, 169, and 173.

**(d) Subject**

Air Transport Association (ATA) of America Code 27, Flight Controls.

**(e) Reason**

This AD was prompted by report of a crew alerting system message caused by an inversion of the wiring in the slats control manifold (SCM). We are issuing this AD to detect and correct inversion of the wiring in the SCM, which could lead to a commanded retraction of the median and outboard slats in flight, and result in reduced controllability of the airplane.

**(f) Compliance**

Comply with this AD within the compliance times specified, unless already done.

**(g) Operational Test**

Within 600 flight hours or 9 months after the effective date of this AD, whichever occurs first: Do an operational test of the slats control manifold (SCM), in accordance with the Accomplishment Instructions of Dassault Aviation Service Bulletin 7X–244, Revision 1, dated July 8, 2013. If the operational test of the SCM fails, before further flight, replace the affected SCM with a serviceable SCM, in accordance with the Accomplishment Instructions of Dassault Aviation Service Bulletin 7X–244, Revision 1, dated July 8, 2013.

**(h) Credit for Previous Actions**

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Dassault Aviation Service Bulletin 7X–244, February 14, 2013.

**(i) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they were approved by the State of Design Authority (or its delegated agent, or by the DAH with a State of Design Authority's design organization approval). You are required to ensure the product is airworthy before it is returned to service.

**(j) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2013–0195, dated August 27, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0177.

(2) For service information identified in this AD, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on March 28, 2014.

**Jeffrey E. Duven,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2014–07519 Filed 4–3–14; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2014–0187; Directorate Identifier 2012–NM–087–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Hawker Beechcraft Corporation Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Hawker Beechcraft Corporation (Type Certificate previously held by Mitsubishi; Raytheon Aircraft Company) Model MU–300 airplanes, and Hawker Beechcraft Corporation (Type Certificate previously held by Raytheon Aircraft Company; Beech Aircraft Corporation) Model 400, 400A, and 400T airplanes. This proposed AD was prompted by multiple reports of fatigue cracking in the horizontal stabilizer ribs. This proposed AD would require repetitive inspections of the horizontal stabilizer rib assemblies for cracking, and replacement if necessary. We are proposing this AD to detect and correct such cracking, which could result in the failure of the horizontal stabilizer and loss of pitch control of the airplane.

**DATES:** We must receive comments on this proposed AD by May 19, 2014.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- Hand Delivery: Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0187; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Paul Chapman, Aerospace Engineer, Airframe Branch, ACE–118W, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4152; fax (316) 946–4107.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0187; Directorate Identifier 2012–NM–087–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

### Discussion

We propose to adopt a new airworthiness directive (AD) for certain Hawker Beechcraft Corporation (Type Certificate previously held by Mitsubishi; Raytheon Aircraft Company) Model MU–300 airplanes, and Hawker Beechcraft Corporation (Type Certificate previously held by Raytheon Aircraft Company; Beech Aircraft Corporation) Model 400, 400A, and 400T airplanes. We have received multiple reports of fatigue cracking in the horizontal stabilizer ribs. This condition, if not corrected, could result in failure of the horizontal stabilizer and loss of pitch control of the airplane.

### FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

**Proposed AD Requirements**

This proposed AD would require repetitive radiographic (x-ray) inspections or borescope inspections for cracking of the horizontal stabilizer rib assemblies, and replacement if necessary, in accordance with a method approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA.

**Costs of Compliance**

We estimate that this proposed AD affects 735 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Inspection | 20 work-hours × $85 per hour = $1,700 per inspection cycle. | $30 | $1,730 per inspection cycle. | $1,271,550 per inspection cycle. |

We estimate the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Replacement | 280 work-hours × $85 per hour = $23,800 | $8,321 | $32,121 |

**Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

**Regulatory Findings**

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

**The Proposed Amendment**

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**Hawker Beechcraft Corporation (Type Certificate Previously held by Raytheon Aircraft Company; Beech Aircraft Corporation); and Hawker Beechcraft Corporation (Type Certificate Previously held by Mitsubishi; Raytheon Aircraft Company):** Docket No. FAA–2014–0187; Directorate Identifier 2012–NM–087–AD.

**(a) Comments Due Date**

We must receive comments by May 19, 2014.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to the airplanes, certificated in any category, identified in paragraphs (c)(1) through (c)(5) of this AD.

(1) Hawker Beechcraft Corporation (Type Certificate previously held by Mitsubishi; Raytheon Aircraft Company) Model MU–300 airplanes, serial numbers A003SA through A093SA inclusive.

(2) Hawker Beechcraft Corporation (Type Certificate previously held by Raytheon Aircraft Company; Beech Aircraft Corporation) Model 400 airplanes, serial numbers RJ–1 through RJ–65 inclusive.

(3) Hawker Beechcraft Corporation (Type Certificate previously held by Raytheon Aircraft Company; Beech Aircraft Corporation) Model 400A airplanes, serial numbers RK–1 through RK–604 inclusive.

(4) Hawker Beechcraft Corporation (Type Certificate previously held by Raytheon Aircraft Company; Beech Aircraft Corporation) Model 400T (T–1A) airplanes, serial numbers TT–1 through TT–180 inclusive.

(5) Hawker Beechcraft Corporation (Type Certificate previously held by Raytheon Aircraft Company; Beech Aircraft Corporation) Model 400T (TX), serial numbers TX–1 through TX–13 inclusive.

**(d) Subject**

Air Transport Association (ATA) of America Code 55, Stabilizers.

**(e) Unsafe Condition**

This AD was prompted by multiple reports of fatigue cracking in the horizontal stabilizer ribs. We are issuing this AD to detect and correct such cracking, which could result in the failure of the horizontal stabilizer and loss of pitch control of the airplane.

**(f) Compliance**

Comply with this AD within the compliance times specified, unless already done.

**(g) Repetitive Inspections**

Before the accumulation of 7,400 total flight hours or within 6 months after the effective date of this AD, whichever occurs later, perform a radiographic (x-ray) inspection or a borescope inspection for cracking of the horizontal stabilizer rib assemblies, in accordance with a method approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA. Repeat the inspection thereafter at intervals not to exceed 2,400 flight hours. For an inspection method to be approved by the Manager, Wichita ACO, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

**(h) Replacement**

If any cracking is found during any inspection required by paragraph (g) of this AD: Before further flight, replace the horizontal rib assemblies with new horizontal rib assemblies, in accordance with method to be approved by the Manager, Wichita ACO. For a replacement method to be approved by the Manager, Wichita ACO, as required by this paragraph, the Manager's approval letter must specifically refer to this AD. This replacement does not terminate the repetitive inspection requirements of paragraph (g) of this AD.

**(i) Special Flight Permit**

Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the airplane can be repaired (if the operator elects to do so), provided the restrictions specified in paragraphs (i)(1) through (i)(4) of this AD are followed.

(1) Do not exceed 10 flight hours of operation.

(2) Only operations under daylight conditions and under visual flight rules are allowed.

(3) Only operations with the minimum flightcrew and with no passengers are allowed.

(4) Do not exceed maneuver speed as specified in the applicable airplane flight manual.

**(j) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Airframe Branch, ACE–118W, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

**(k) Related Information**

For more information about this AD, contact Paul Chapman, Aerospace Engineer, Airframe Branch, ACE–118W, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4152; fax (316) 946–4107.

Issued in Renton, Washington, on March 28, 2014.

**Jeffrey E. Duven,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2014–07520 Filed 4–3–14; 8:45 am]

**BILLING CODE 4910–13–P**

## FEDERAL TRADE COMMISSION

## 16 CFR Part 306

## Automotive Fuel Ratings, Certification and Posting

**AGENCY:** Federal Trade Commission (''FTC'' or ''Commission'').

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Commission proposes amendments to its Rule for Automotive Fuel Ratings, Certification and Posting (''Fuel Rating Rule'' or ''Rule'') that would adopt and revise rating, certification, and labeling requirements for ethanol-gasoline blends and would allow an alternative octane rating method. The proposed amendments further the Rule's goal of helping purchasers identify the correct fuel for their vehicles.

**DATES:** Comments on the proposed information requests must be received on or before June 2, 2014.

**ADDRESSES:** Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Fuel Rating Rule Review, 16 CFR Part 306, Project No. R811005'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/autofuelratingscertnprm* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex N), 600 Pennsylvania Avenue NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Miriam Lederer, (202) 326–2975, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:**

### I. Introduction

The Federal Trade Commission proposes amending its Fuel Rating Rule, 16 CFR part 306, to provide: (1) Revised rating, certification, and labeling requirements for blends of gasoline and more than 10 percent ethanol (''ethanol blends''); and 2) an additional octane rating method for gasoline. The Commission previously proposed amendments governing ethanol blends in a 2010 Notice of Proposed Rulemaking (''2010 NPRM'').[1] After reviewing the comments, the Commission responded in April 2011 by publishing final amendments addressing other issues. Specifically, the Commission approved a new octane rating method and declined to amend the biodiesel and biomass-based diesel provisions.[2] The Commission deferred consideration of ethanol blend labeling to consider an Environmental Protection Agency (''EPA'') decision permitting the use of ethanol blends between 10 to 15 percent concentration (''E15'') in 2001 and newer conventional vehicles.[3] The Commission now proposes ethanol-labeling amendments in response to comments received on the 2010 NPRM proposals, EPA's action, and changes in an ASTM International specification regarding ethanol.

The amendments proposed today retain the 2010 NPRM's proposal that entities rate and certify all ethanol blends, but alter the proposed ethanol label's disclosures, to provide consumers with more precise concentration and suitability information. The new proposed amendments also exempt EPA-approved E15 from the Commission's labeling requirements.

The Commission also proposes an additional octane rating method that

[1] *Federal Trade Commission: Automotive Fuel Ratings, Certification and Posting: Notice of Proposed Rulemaking (''2010 NPRM''),* 75 FR 12470 (Mar. 16, 2010).

[2] *Federal Trade Commission: Automotive Fuel Ratings, Certification and Posting: Final Rule Amendments (''2011 Final Amendments''),* 76 FR 19684 (Apr. 8, 2011).

[3] EPA made this decision through a two-step process. First, the agency approved E15 for 2007 and newer vehicles. *Environmental Protection Agency: Partial Grant and Partial Denial of Clean Air Act Waiver Application Submitted by Growth Energy to Increase the Allowable Ethanol Content of Gasoline to 15 Percent; Decision of the Administrator* (''*EPA Waiver Decision I''),* 75 FR 68094 (Nov. 4, 2010). Then, it expanded its approval to 2001 and newer vehicles, based on additional test data. *Environmental Protection Agency, Partial Grant of Clean Air Act Waiver Application Submitted by Growth Energy to Increase the Allowable Ethanol Content of Gasoline to 15 Percent; Decision of the Administrator* (''*EPA Waiver Decision II''*), 76 FR 4662 (Jan. 26, 2011). For ease of discussion, this document refers to them together as the EPA ''waiver decision.''

uses infrared sensor technology (the ''infrared method'') to measure gasoline octane levels. Although the Commission did not propose this rating method in the 2010 NPRM, several commenters, including state regulatory agencies, supported its use.

To accomplish these goals, this document first provides background on the Fuel Rating Rule, ethanol blends, and this rulemaking's procedural history. Then, it discusses the additions to the record since the 2010 NPRM.[4] Finally, it responds to the new record evidence and describes the new proposed amendments in detail.

## II. Background

### *A. The Fuel Rating Rule*

The Commission first promulgated the Fuel Rating Rule, 16 CFR Part 306 (then titled the ''Octane Certification and Posting Rule''), in 1979, in accordance with the Petroleum Marketing Practices Act (''PMPA''), 15 U.S.C. 2801 *et seq.*[5] The Rule originally applied only to gasoline. In 1993, pursuant to PMPA amendments, the Commission expanded the Rule to cover all alternative liquid fuels.[6] Currently, the Rule identifies a non-exhaustive list of ''alternative liquid automotive fuels.'' That list does not include ethanol blends below 70 percent concentration.[7]

PMPA authorizes the Commission to require octane ratings, cetane ratings (for diesel fuel), or ''another form of rating'' that it determines is more appropriate to carry out the Act's purposes. For alternative fuels, the 1993 amendments require a rating that is ''the commonly used name of the fuel with a disclosure of the amount, expressed as a minimum percentage by volume, of the principal component of the fuel.'' [8] In promulgating those amendments, the Commission determined that this rating was appropriate because octane ratings might mislead consumers to believe that gasoline and alternative fuels are interchangeable and that alternative fuels' high octane ratings ''signif[y] higher quality and better performance.'' [9]

The Fuel Rating Rule designates methods for rating and certifying fuels, as well as posting the ratings at the point of sale. The Rule also requires refiners, importers, and producers of any liquid automotive fuel to determine a fuel's ''automotive fuel rating'' before transferring it to a distributor or retailer. Any covered entity, including a distributor, that transfers a fuel must certify the fuel's rating to the transferee either by including it in papers accompanying the transfer or by letter.[10] The Rule also requires retailers to post the fuel rating by adhering a label to the retail fuel pump; the Rule provides precise specifications regarding the content, size, color, and font of the labels.[11]

### *B. Ethanol*

Ethanol is a renewable fuel made from corn or other plant materials.[12] Fuel producers and retailers can blend ethanol with gasoline in various concentrations. Almost all gasoline in the United States contains ethanol in a low-level blend composed of up to 10 percent ethanol and 90 percent gasoline.[13] EPA recently approved the use of E15 in conventional vehicles model year (''MY'') 2001 and newer, subject to certain conditions.[14]

### *C. Procedural History*

This rulemaking began in 2009 when the Commission solicited general comments on the Fuel Rating Rule.[15] After reviewing those comments, the Commission published the 2010 NPRM proposing, among other things, three changes to the Fuel Rating Rule's ethanol fuel provisions. First, the proposed amendments required rating ethanol-gasoline blends by the percentage of ethanol, rather than the currently required ''principal component,'' in order to accurately label ethanol blends below 50 percent concentration. Second, the proposed amendments defined a new class of ethanol blends containing more than 10 but less than 70 percent ethanol as ''mid-level ethanol blends.'' Third, the proposed amendments added new labeling requirements for ethanol blends. For mid-level ethanol blends, the labels would disclose the ethanol content as a broad range of ''10 to 70 percent ethanol,'' a narrower range, or a specific percentage. For all ethanol blends, the proposed labels contained the additional disclosures ''may harm some vehicles'' and ''check owner's manual.'' The Commission explained that the labels' ''additional information should assist consumers in identifying the proper fuel for their vehicles.'' [16]

As described in detail below, commenters responding to the 2010 NPRM objected to several aspects of the proposed ethanol labeling requirements and suggested various revisions. Generally, they favored a more precise disclosure of the fuel's ethanol concentration and a more specific disclosure concerning the fuel's proper use. They also encouraged the FTC to coordinate its labeling requirements with EPA's developing labeling requirements for E15. In addition, many commenters urged the Commission to allow the infrared method as an additional octane rating method.[17]

On April 8, 2011, in light of the commenters' feedback and EPA's pending E15 rulemaking, the Commission published final amendments addressing the 2010 NPRM's non-ethanol provisions but announced that it would consider issuing ethanol-labeling amendments and the infrared method at a later date.[18]

## III. The Record

The Commission received 54 comments in response to the 2010 NPRM that addressed ethanol labeling.[19] In addition, EPA issued final rules governing use of E15 in conventional cars, including a pump label for E15 dispensers. Furthermore, ASTM International (''ASTM'') substantially revised its ethanol fuel specification for ethanol percentages in higher concentration ethanol blends. Finally, the Commission received many comments, including from industry, state regulatory agencies, and a consumer advocacy group supporting the use of the infrared method in testing octane.

### *A. Comments Received in Response to the 2010 NPRM's Proposed Ethanol Labeling*

Commenters generally objected to the 2010 ethanol-labeling proposal, but

[4] For a discussion of comments regarding other issues, *see 2011 Final Amendments,* 76 FR at 19686–87.

[5] *Federal Trade Commission: Automotive Fuel Ratings, Certification and Posting: Final Rule,* 44 FR 19160 (Mar. 30, 1979).

[6] *Federal Trade Commission: Automotive Fuel Ratings, Certification and Posting: Final Rule (''1993 Final Rule''),* 58 FR 41356 (Aug. 3, 1993).

[7] 16 CFR 306.0(i)(2).

[8] 16 CFR 306.0(j)(2). For blends with more than 5 percent biodiesel or biomass-based diesel, the rating is a ''disclosure of the biomass-based diesel or biodiesel component, expressed as a percentage by volume.'' 16 CFR 306.0(j)(3).

[9] 58 FR at 41361.

[10] 16 CFR 306.6.

[11] 16 CFR 306.10; 306.12.

[12] *See www.afdc.energy.gov/fuels/ethanol.html.*

[13] *See www.afdc.energy.gov/fuels/ethanol_blends.html.*

[14] *EPA Waiver Decision II,* 76 FR 4662.

[15] *Federal Trade Commission: Automotive Fuel Ratings, Certification and Posting: Request for Public Comments,* 74 FR 9054 (Mar. 2, 2009).

[16] *2010 NPRM,* 75 FR at 12474.

[17] Commenters had not previously mentioned the infrared method, and the Commission did not propose it in the 2010 NPM. Therefore, the Commission declined to issue final amendments including the infrared method without providing notice and opportunity for comment on it. *2011 Final Amendments,* 76 FR at 19689.

[18] *Id.*

[19] These comments are located at: *www.ftc.gov/os/comments/fuelratingnprm.*

their reasons differed. The Renewable Fuels Association (''RFA'') and Growth Energy, an association of ethanol producers, argued that the FTC lacks legal authority to promulgate the proposed labeling requirements. In addition, these commenters, along with other individuals and businesses, asserted that the proposed labels' suitability disclosures, ''May harm some vehicles'' and ''Check owner's manual,'' unfairly conveyed a negative message about the fuel.[20] In contrast, other commenters, including consumer groups, petroleum industry members and organizations, engine manufacturer organizations, and state regulators, argued that the risks from ethanol misfueling necessitated stronger suitability language and a more precise disclosure regarding the percentage of ethanol in the fuel.[21]

1. Objections to the Proposed Labeling Requirements as Beyond the FTC's Authority

RFA and Growth Energy argued that PMPA did not authorize the FTC to require the ethanol labels proposed in the 2010 NPRM. They asserted that PMPA permitted the FTC to require that retailers display only ''automotive fuel rating[s].'' [22] RFA asserted that, under PMPA, the term ''automotive fuel rating'' does not include ''representations as to the quality of the fuel or potential impacts on vehicle performance.'' [23] They therefore argued that the proposed disclosure ''May harm some vehicles/Check owner's manual'' did not fall within the definition of ''automotive fuel rating.'' [24] Moreover, RFA viewed the proposed disclosures as denigrating to the ethanol blends' performance and quality and, therefore, beyond PMPA's authority.[25]

Growth Energy likewise focused on the definition of ''automotive fuel rating,'' arguing that the statute's intent was only to require octane, cetane, or similar ratings. The Act states: ''The term 'automotive fuel rating' means (A) the octane rating of an automotive spark-ignition engine fuel; *and* (B) if provided for by the Federal Trade Commission by rule, the cetane rating of diesel fuel oils; *or* (C) another form of rating. . . .'' [26] Growth Energy argued that the use of ''and'' and ''or'' evidences an intent that the FTC require either octane and cetane ratings or another, similar rating in their place.[27]

Growth Energy further asserted that principles of statutory construction require the Commission to read ''another form of rating'' in light of the other listed ratings. Thus, according to Growth Energy, the statutory language ''makes it unambiguous that Congress wanted to require any other rating forms that the FTC might attempt to promulgate to be similar in purpose to octane or cetane ratings.'' [28]

In further support of their reading of PMPA, Growth Energy and RFA cited statements in the Congressional Record regarding the 1992 amendments to the statute.[29] In particular, Growth Energy cited statements describing the amendments as extending the statute's octane rating requirements to other fuels, thereby allowing consumers to compare different fuels' octane ratings.[30] RFA noted that in its 1993 rulemaking, the Commission relied upon legislative history describing an intent to ensure that consumers ''have a right to know what they pay for, and . . . dealers have a right to know that their competitors are not cheating.'' [31] Growth Energy and RFA maintained that these statements foreclosed interpreting ''automotive fuel rating'' to include the proposed disclosures.[32]

2. Objections to the Proposed Labels

Commenters disagreed about the form and content of the proposed ethanol disclosures. Ethanol-industry commenters viewed the disclosures as excessive and urged what they characterized as more neutral content. In contrast, consumer groups, petroleum industry groups, auto and other engine manufacturing groups, as well as individual commenters, criticized the disclosures as inadequate given the risks of using ethanol blends in conventional vehicles.

a. Criticism of Proposed Labels as Unnecessary and Unfair

Ethanol-industry commenters presented several arguments that the proposed ethanol labels were unnecessary and unfair. As discussed below, three of these commenters disputed evidence that ethanol blends harm conventional engines, and all asserted that the proposed labels denigrated ethanol blends. In addition, several argued that the amended Rule would unfairly require the proposed disclosures only for ethanol blends rather than all alternative fuels. To address these issues, almost all of these commenters [33] suggested, among other things, replacing the proposed language with ''flex-fuel vehicles only,'' or substantially similar language.[34]

As a threshold issue, three commenters disagreed that the evidence established that there is a significant risk to consumers' vehicles from ethanol fuel use. RFA stated that earlier comments noting potential risks from ethanol ''provide no evidence that mid-level ethanol blends or E85 will damage conventional vehicles,'' explaining:

> There are many ongoing projects researching the effects of E15 and E20 on vehicle engine, catalysts, Powertrain systems, fuel system damper, level sensors, and general material compatibility. This research

[20] The following commenters specifically supported Growth Energy's comment: Bob Haskins Racing; ''Eichstadt''; Kurt Felker; Donna Funk; ''Gill''; David Gloer; ''Kelleher''; Kelley Manning; and Jonathan Overly. In addition to commenters supporting Growth Energy, the following individuals and entities submitted brief comments voicing support for ethanol fuels and/or criticisms of the proposed labels as unfair to those fuels: Dale Calendine; James Foley; Michael Green; Kelly Hansen; ''Jarman''; Steve Murphy; William Nankervis; Philbro; POET Biorefining; Patrick Reid; and Dan Sanders. Growth Energy, RFA, ICM, Inc., and the American Coalition for Ethanol (''ACE''), along with the other commenters identified in this footnote are hereinafter referred to collectively as ''ethanol-industry commenters.'' The Commission recognizes that some of these commenters may not be ethanol industry members or employees, and is using the term only as shorthand for the purposes of this document.

[21] Specifically, these commenters were: The Center for Auto Safety; the American Petroleum Institute; Marathon Petroleum Company, LLC; the Alliance of Automobile Manufacturers; the Association of International Automobile Manufacturers; the Clean Vehicle Education Foundation; the Alliance for a Sane Alternative Fuels Environment; the National Marine Manufacturers Association; the Tennessee, New York, and Missouri Departments of Agriculture; and the New York Department of Environmental Conservation.

[22] PMPA's definition of ''automotive fuel ratings'' includes: Octane ratings; cetane ratings; or ''another form of rating determined by the Federal Trade Commission, after consultation with [ASTM], to be more appropriate to carry out the purposes of this subchapter with respect to the automotive fuel concerned. 15 U.S.C. 2821(17)(C).

[23] RFA comment at 3.

[24] *Id.*

[25] RFA comment at 3.

[26] 15 U.S.C. 2821(17) (emphasis added).

[27] Growth Energy comment at 11.

[28] *Id.* at 11–12.

[29] Growth Energy also cited the original PMPA's legislative history as indicating intent to require retailers to post only octane ratings. Growth Energy comment at 7.

[30] Growth Energy comment at 8.

[31] RFA comment at 2–3 (internal quotation marks omitted).

[32] *Id.* at 3; Growth Energy Comment at 8. Growth Energy made two additional arguments related to process. First, it argued that the Commission has not fulfilled its obligation under PMPA to consult with ASTM. Growth Energy comment at 13. Second, it argued that the Commission must assess how the proposed disclosures further the ''objectives of an octane rating'' before requiring an alternative rating. *Id.* at 14.

[33] RFA opposed any narrative disclosure, arguing that ''[t]he ethanol content of the fuel is sufficient to inform consumers'' of misfueling risk. RFA comment at 8.

[34] *See, e.g.,* ACE comment at 2; ICM, Inc. comment at 2. Growth Energy favored voluntary labeling guidelines that would include ''Flex Fuel Vehicles Only'' on the labels. Growth Energy comment at 18–19.

is not complete, and it is incorrect to state confirmatively that blends above 10 percent ethanol by volume are not appropriate for certain vehicles . . . . [E]vidence to date . . . indicates that mid-level ethanol blends do not harm motor vehicles.[35]

Growth Energy concurred, asserting ''[t]he statement that midlevel blends 'MAY HARM SOME VEHICLES' has no apparent basis in the record, other than two comment letters unaccompanied by any technical or market-research analysis.'' [36] ACE likewise argued that the need for ''may harm some vehicles'' is ''unsupported by any of the data'' in the March 2009 record.[37]

ACE and RFA asserted that the Rule's current requirements already prevent misfueling, relying on a 2009 comment asserting that ethanol misfueling is virtually nonexistent.[38] Thus, RFA concluded, ''using the commonly used name of alternative fuels with a disclosure of the amount . . . of the principal component of the fuel provides sufficient information for consumers.'' [39]

Growth Energy, ACE, RFA, and the other ethanol-industry commenters also argued that the proposed labels' ''negative statements'' would mislead consumers by suggesting that they should not use ethanol blends in any type of vehicle.[40] In particular, Growth Energy expressed concern that the term ''some'' would confuse consumers, leaving them ''wondering if [their] vehicle fits within the 'some' category'' and, thereby, deterring flex-fuel vehicle owners from purchasing ethanol blends.[41] ICM, Inc., an agricultural and renewable energy company, concurred, stating that consumers could perceive the labels as a warning, thereby improperly influencing their purchasing decisions.[42] ACE asserted that ''any fuel 'MAY HARM SOME VEHICLES,' '' so the proposed labels would unfairly discourage use of ethanol blends by suggesting to a consumer that ''his/her vehicle may be [one] that would be harmed.'' [43] According to ACE, the proposed labels would likely ''lead a flex fuel vehicle owner to question whether a mid-level blend or E85 is suitable for the very type of vehicle that was designed to use that fuel.'' [44] In addition, many other individual and business commenters described the labels as a ''gross misrepresentation of the fuel,'' [45] and argued that requiring suitability language only for ethanol blends treats like fuels inconsistently.[46]

Finally, Growth Energy, ACE, and all other ethanol-industry commenters that addressed the issue criticized the proposed labels' orange background. Specifically, they argued that orange was an inappropriate color because the transportation sector traditionally has used that color to signal caution.[47]

To remedy the perceived content and format flaws, Growth Energy, ACE, and other ethanol-industry commenters, as well as some state regulators, suggested a ''For Flex-Fuel Vehicles Only'' disclosure (or substantially similar language), and an octane disclosure.[48] Commenter ICM, Inc. explained:

> This clear warning statement will protect consumers against improper fueling of their vehicles while not discouraging the market access and use of alternative fuels containing ethanol. . . . In addition, we strongly recommend including an octane rating requirement for alternative fuels containing ethanol. The FTC's proposed label for alternative fuels does not have the critical octane rating which ensures that consumers can choose the appropriate octane level for their engine.[49]

The Tennessee Department of Agriculture supported replacing ''May harm some vehicles'' with ''For flexible fuel vehicles only,'' but favored retaining ''Check owner's manual.'' [50] The New York Department of Environmental Conservation supported an octane disclosure on ethanol labels, but only in conjunction with a disclosure of ethanol content and ''any appropriate limitation on use of the fuel in order to prevent misfueling.'' [51] In addition, Growth Energy and other ethanol-industry commenters proposed changing the required background to blue, asserting that a dark blue background for ethanol blends would ''distinguish[ ] these fuels from the other alternative fuels.'' [52]

b. Criticism of Proposed Labels as Insufficient To Warn Against Risks

In contrast, some commenters supported revising the proposed labels to include stronger misfueling disclosures. In addition, some of these commenters criticized the proposed labels' failure to address non-automotive devices, such as lawn equipment. Notably, all of these commenters proposed adding a ''For Flex-Fuel Vehicles Only'' disclosure, and most supported additional disclosure language.

Many commenters voiced concerns that the proposed labels would not prevent misfueling. For example, Marathon Petroleum Company, LLC (''Marathon'') stated that it ''does not believe that [the] FTC's current proposal to label mid-level ethanol blends . . . is enough of a consumer warning to prevent mis-fueling and advise the consumer of the potential dangers.'' [53] The American Petroleum Institute (''API'') agreed, explaining:

> [The proposed] language is inadequate because it fails to warn consumers that mid-level ethanol blends may cause damage to, and may not be used in, any equipment other than Flexible-Fuel Vehicles (''FFVs''). . . . [O]nly FFVs are currently permitted by EPA to use blends containing greater than 10 vol% ethanol. Use in non-FFVs is a violation of federal law. . . . Therefore, strong language is necessary to clarify that only specialty vehicles can use these fuels.[54]

Similarly, the Association of International Automobile Manufacturers (''AIAM'') supported stronger language because EPA does not allow distribution of ethanol fuel for use in conventional vehicles.[55]

[35] RFA comment at 6–7.

[36] Growth Energy comment at 15.

[37] ACE comment at 2.

[38] *Id.* at 1; RFA comment at 3. The Alliance of Automobile Manufacturers (''AAM'') submitted the referenced comment, which observed that ''pump labeling of E85 dispensers appears to have been successful'' because reports of misfueling have been ''virtually nonexistent.'' *See 2010 NPRM,* 75 FR at 12471 for further discussion. As discussed below, evidence submitted in response to the NPRM contradicts AAM's comment.

[39] RFA comment at 3.

[40] *See, e.g., id.* at 5. Other commenters voiced similar concerns. The Petroleum Marketers Association of America (''PMAA'') asserted that the proposed language would ''confuse consumers and raise an unwarranted suspicion'' that ethanol blends could damage cars regardless of concentration. PMAA comment at 2. In addition, the Tennessee Department of Agriculture, while not characterizing the suitability language as distorting or disparaging, expressed concern that the labels would lead flex-fuel vehicle owners to avoid ethanol fuel. Tennessee Department of Agriculture comment at 2.

[41] Growth Energy comment at 15.

[42] ICM, Inc. comment at 1.

[43] ACE comment at 2.

[44] *Id.*

[45] *See, e.g.,* David Gloer comment; Kurt Felker comment; Patrick Reid comment.

[46] RFA comment at 6. AAM also acknowledged the inconsistency of requiring suitability language for some but not all fuels, but proposed addressing it by requiring the same advisory language for blends of gasoline and methanol, an alcohol-based fuel, as well as for biodiesel fuels. AAM comment at 2.

[47] *See, e.g.,* ACE comment at 2; Growth Energy comment at 18; ICM, Inc. comment at 2.

[48] *See, e.g.,* Growth Energy comment at 18–19; ACE comment at 2 (''The simple addition of the phrase 'For Flex-Fuel Vehicles Only' would be a change that we would support.''); ICM, Inc. comment at 2; Patrick Reid comment; David Gloer comment. Growth Energy, consistent with its interpretation of PMPA, supported this type of disclosure only on a voluntary basis.

[49] ICM, Inc. comment at 2.

[50] Tennessee Department of Agriculture comment at 2.

[51] New York Department of Environmental Conservation comment at 2.

[52] Growth Energy comment at 18; *see also, e.g.,* Patrick Reid comment; David Gloer comment.

[53] Marathon comment at 1.

[54] API comment at 3.

[55] AIAM comment at 2.

In addition, several commenters noted that misfueling can cause significant engine damage. For example, the Center for Auto Safety (''CAS''), a nonprofit consumer group, noted EPA's prohibition and explained:

> Depending upon the percentage of ethanol in the fuel blend and the number of misfueling events, misfueling a non-FFV with mid-level or higher ethanol and gasoline blends can cause: An increase in HC and $NO_X$ emissions, malfunction of the engine, degradation of the catalyst or engine, and invalidation of the manufacturer warranty on the vehicle emissions control systems[.] [56]

The Clean Vehicle Education Foundation (''CVEF'') similarly noted that misfueling potentially causes ''failure of the fuel system on the vehicle due to degradation of the elastomers and galvanic corrosion.'' [57] PMAA likewise argued that the proposed labels are ''not sufficient'' because ethanol misfueling ''could void automobile warranties, damage catalytic converters, increase tailpipe emissions and expose petroleum retailers to increased risk of liability.'' [58]

Moreover, Petroleum Marketers and Convenience Stores of Iowa (''PMCI''), an Iowa fuel retailer group, reported that ethanol misfueling occurs in the absence of labeling.[59] Notably, this contradicts AAM's comment in the March 2009 record that ethanol misfueling is virtually nonexistent.

In addition, commenters AllSAFE, the National Marine Manufacturers Association (''NMMA''), and several individual commenters [60] criticized the proposed labels for inadequately warning non-automotive engine owners of ethanol misfueling risks.[61] AllSAFE explained that use of ethanol blends in non-automotive engines can cause ''emissions control device failures, operability issues, and equipment failures,'' which can present safety risks for those devices' users.[62] NMMA noted that ethanol blends can adversely impact boat engines.[63]

Despite disagreeing with ethanol-industry commenters about the need to alert consumers of misfueling risks, commenters favoring stronger labels recommended a ''For Flex-Fuel Vehicles Only'' disclosure, albeit generally as part of a longer advisory. For example, commenters AllSAFE, NMMA, and API supported adding a ''Flex-Fuel Vehicles Only'' disclosure. AllSAFE and NMMA supported this additional disclosure in conjunction with an advisement that the law prohibits use of ethanol blends in an exhaustive list of non-automotive engines and equipment.[64] API supported the disclosure along with legal prohibition language, an advisement that the fuel ''may damage'' non flex-fuel vehicles, and the word ''WARNING.'' [65] Commenters CVEF, Marathon, AIAM, and PMCI also favored ''For Flex-Fuel Vehicles Only'' (or something very similar).[66] Similarly, CAS supported a ''Flexible-Fuel Vehicles Only'' labeling scheme, along with requiring ''conspicuous signs indicating that [ethanol] fuels are for FFVs only'' and pump nozzle labels stating ''For FFV use only.'' [67]

3. Objections to Proposed Ethanol Concentration Disclosures

In the 2010 NPRM, the Commission proposed continuing to allow labels for ethanol blends above 70 percent concentration to disclose the minimum amount in the blend, while requiring ''mid-level ethanol blend'' labels to disclose a range of 10 to 70 percent, a narrower range, or the exact percentage of ethanol in the blend. Of the fourteen commenters that addressed this issue, all but one favored a more specific fuel-concentration disclosure. Several argued that consumers needed more specificity because fuel economy decreases as ethanol concentration increases, affecting consumers' overall fuel costs. CVEF explained:

> Ethanol has a lower volumetric energy density than gasoline. A blend of ethanol in gasoline will have a lower energy density than the base gasoline by an amount proportional to the volume -% ethanol in the blended fuel. Ethanol . . . has an energy density of approximately 76,000 BTU/gallon. . . . Gasoline . . . [has] an energy density generally measured in the range of 109,000 to 119,000 BTU/gallon. . . . [Thus,] for every 1% addition of ethanol in gasoline, the energy density of the fuel blend will drop by about 0.33%. . . . As the volumetric energy density of the fuel goes down, so does the vehicle's fuel economy.[68]

Individual commenter James Hyde submitted a similar analysis, and observed that the disparity in energy densities between gasoline and ethanol can affect consumers' overall fuel costs:

> [S]ince ethanol contains considerably less energy [than] does petroleum-derived gasoline, the consumer must purchase more gallons of mixtures to drive the same distance[,] . . . and so reducing the value to a consumer while also reducing the supplier's cost . . . . The consumer who is unaware of these differences may be [led] to believe that a fuel with a lower cost per gallon and a higher posted octane is a better value.[69]

In addition, AAM noted that vehicle ethanol tolerances will likely vary in the future, and consumers will need a more specific disclosure ''to protect their vehicles and related warranties when selecting fuel.'' [70]

Thus, CVEF and AAM, as well as the Tennessee, New York, and Missouri Departments of Agriculture, and the New York Department of Environmental Conservation, supported more precise concentration disclosures.[71] MDA supported a disclosure of the exact ethanol percentage.[72] Others suggested allowing some flexibility. For example,

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[56] CAS comment at 2 (citations omitted).

[57] CVEF comment at 1.

[58] PMAA comment at 1–2. *See also* The Alliance for a Safe Alternative Fuels Environment (''AllSAFE'') comment at 4 (''[Conventional vehicles] may experience emissions control device failures, operability issues, and equipment failures when operated on fuels greater than E–10.'').

[59] Specifically, PMCI related that ''[i]n Iowa where Mid-Level Ethanol blends and E85 are widely available and heavily promoted by interested groups, instances of misfueling occur frequently enough to be a cause for concern among retailers.'' PMCI comment at 1. *See also* PMAA comment at 1 (stating that ''misfueling would increase'' in the absence of labeling).

[60] *See, e.g.,* Louis Ehlers comment (supporting an ethanol disclosure so consumers can select proper fuel for use in airplanes).

[61] Several petroleum companies and associations agreed that ethanol fuels pose risks to non-road engines. *See, e.g.,* Marathon comment at 1.

[62] AllSAFE comment at 4.

[63] NMMA comment at 4. *See also EPA Waiver Decision I,* 75 FR at 68129–37 (discussing non-suitability of E15 for non-road engines, vehicles, and equipment).

[64] AllSAFE comment at 12; NMMA comment at 5. In addition, AllSAFE proposed going beyond labeling and requiring a ''visible gap'' between gasoline and ethanol fuel pumps. AllSAFE comment at 5.

[65] API comment at 4.

[66] CVEF comment at 1; Marathon comment at 2; AIAM comment at 2; PMCI comment at 2. In addition, the Missouri Department of Agriculture (''MDA'') noted that the National Conference on Weights and Measures (''NCWM'') has adopted model regulations requiring ethanol fuel labels reading: ''For Use in Flexible Fuels Vehicles (FFV) Only.'' MDA comment at 2.

[67] CAS comment at 2.

[68] CVEF comment at 2 (citations omitted). CVEF's comment cited two studies of ethanol fuel economy supporting its observations. No commenter presented data contradicting those studies.

[69] James Hyde comment at 1.

[70] AAM comment at 1. AAM also suggested changing the disclosure thresholds from 10 and 70 percent to 11 and 69 to further mitigate the risk of consumer confusion about selecting the proper fuel. *Id.* at 2.

[71] CVEF comment at 1; AAM comment at 1; Tennessee Department of Agriculture comment at 2; New York Department of Agriculture and Markets comment at 1; MDA comment at 1; New York Department of Environmental Conservation comment at 2; AllSAFE comment at 8–9. As an alternative means of addressing the problem, Hyde suggested adopting unit pricing based on gasoline-gallon equivalents rather than an ethanol content disclosure. James Hyde comment at 2. AllSAFE similarly requested that the Commission use its authority under the FTC Act to require fuel labeling according to energy content (*e.g.,* a label disclosing the BTU per gallon of fuel sold). AllSAFE comment at 10–11.

[72] MDA comment at 1. MDA favored an exact disclosure for only blends below 70 percent concentration. *Id.*

the Tennessee Department of Agriculture supported rounding to the nearest interval of 10 (*e.g.,* disclose 62 percent ethanol as 60 percent) because such rounding would ''provide[ ] reasonable flexibility, and also provide[ ] sufficient information for the consumer to make an informed choice.'' [73]

Significantly, ethanol-industry commenters also recommended a more precise content disclosure. Growth Energy, for example, favored an exact percentage disclosure because ''ethanol concentration has an impact on the economics of the purchase, and the consumer needs to know more precisely the concentration of the ethanol in the fuel to make an informed decision regarding the purchase.'' [74] Comments submitted by individual ethanol supporters suggested a disclosure grouped in intervals of 10, allowing the actual fuel concentration to vary from as much as 10 percent more than the disclosed amount to 10 percent less than that amount (*e.g.,* a blend disclosed as 20 percent could vary between 18 and 22 percent, while a blend disclosed as 30 percent could vary between 27 and 33 percent).[75]

One commenter, PMCI, did not support a more precise disclosure. Instead, it praised the Commission's proposal as giving ''retailers the flexibility to account for relative changes in the prices of gasoline and ethanol.'' [76]

### *B. EPA E15 Waiver*

When the Commission issued the 2010 NPRM, EPA was considering an application to allow E15 in conventional vehicles, pursuant to its authority under the Clean Air Act, Section 211(f)(4), to grant ''waivers'' to non-gasoline fuels for use in conventional cars.[77] Several commenters urged the FTC to coordinate with EPA to avoid conflicts in the labeling requirements.[78]

After the 2010 NPRM comment period closed, EPA granted a waiver that permitted light-duty [79] conventional vehicles, MY2001 and later, to use EPA-approved E15 blends. The waiver requires that this fuel meet certain fuel quality standards.[80] Moreover, EPA soon thereafter promulgated complementary regulations to help prevent misfueling.[81] The regulations include: (1) A prohibition on misfueling by ''gasoline and ethanol producers, distributors, retailers, and consumers'' and (2) ''labeling requirements for fuel pumps that dispense E15 to alert consumers to the appropriate and lawful use of the fuel.'' [82]

#### 1. EPA's Prohibition Against Misfueling

Relying on its technical and engineering expertise, EPA prohibited the use of E15 and higher blends in certain vehicles and engines because it found that ethanol has properties that can damage older conventional cars, heavy-duty gasoline engines and vehicles, motorcycles, and nonroad products.[83] Specifically, ethanol increases the air-fuel ratio, causing the fuel to burn hotter.[84] Hotter burning fuel can damage catalytic converters over time and lead to other component failure.[85] In motorcycles and nonroad products, EPA raised engine-failure concerns from overheating. Therefore, EPA declined to approve ethanol blends above 10 percent for use in older conventional vehicles, heavy-duty gasoline engines and vehicles, motorcycles, or nonroad products, unless it had reliable [86] test data showing a lack of harm.[87]

As part of EPA's waiver, the agency promulgated complementary regulations that, among other things, prohibit misfueling in older conventional cars, heavy-duty gasoline engines, motorcycles, and non-road engines.[88] This prohibition ''establishes a legal barrier against production, distribution, sale or use of gasoline containing more than 10 vol% ethanol in vehicles, engines and equipment not covered by the partial waiver decisions . . . . The prohibition is broadly applicable, including to consumers.'' [89] In response to a question regarding to whom the prohibition applied, EPA responded:

> [T]he proposed regulations would prohibit consumer misfueling, whether intentional or not, and we are retaining that provision in today's final rule. Thus, today's final rule prohibits *any* person from introducing or causing the introduction of gasoline containing greater than 10 vol% ethanol into vehicles, engines, and products not covered by the E15 partial waivers, and prohibits causing or allowing the introduction of gasoline containing greater than 10 vol%

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[73] Tennessee Department of Agriculture comment at 2.

[74] Growth Energy comment at 17–18.

[75] *See, e.g.,* ICM, Inc. comment at 2; David Gloer comment.

[76] PMCI comment at 1. In addition to comments regarding precise disclosure, API urged that the Commission ensure consistency with EPA regulations by defining mid-level ethanol blends and E85 according to their percentages of pure, rather than denatured, ethanol. API comment at 1–2. As part of the ethanol production process, manufacturers add a small amount of denaturant, usually gasoline, to the ethanol before distributing it. The proposed amendments define ethanol fuels according to their ethanol volume, exclusive of denaturant, to remain consistent with EPA regulations.

[77] *See EPA Waiver Decision I,* 75 FR at 68099. Section 211(f) of the Clean Air Act bans alternative fuels, including ethanol blends, from being introduced into commerce unless EPA affirmatively permits them for certain vehicles. *See* 42 U.S.C. 7545(f).

[78] For example, Growth Energy argued that if EPA approved the waiver request, the FTC's proposed Fuel Rating Rule amendments would require a label for E15 advising consumers of potential vehicle harm, even though EPA had approved the fuel for all vehicles. Growth Energy comment at 17. API and other commenters urged the Commission to ''communicate and coordinate with [EPA] to develop a common dispenser labeling scheme.'' API comment at 1. *See also* AAM comment at 2; AIAM comment at 2; AllSAFE comment at 6–7; NMMA comment at 2; National Petrochemical & Refiners Association (''NPRA'') comment at 2; New York Department of Environmental Conservation comment at 1; New York State Department of Agriculture and Markets comment at 2–3. Marathon, PMAA, and Valero recommended delaying any rulemaking until EPA issued a decision on the waiver petition. Marathon comment at 1–2; PMAA comment at 2; Valero comment at 1.

[79] ''Light-duty'' vehicles include passenger cars, light-duty trucks, and medium-duty passenger vehicles. *See EPA Waiver Decision I,* 75 FR at 68095.

[80] *EPA Waiver Decision I,* 75 FR at 68149–50.

[81] *Regulation to Mitigate the Misfueling of Vehicles and Engines With Gasoline Containing Greater Than Ten Volume Percent Ethanol and Modifications to the Reformulated and Conventional Gasoline Programs; Final Rule* (''*Final Rule to Mitigate Misfueling*''), 40 CFR Part 80, 76 FR 44406, 44407 (July 25, 2011).

[82] *Id.* EPA promulgated these anti-misfueling measures under Section 211(c) of the Clean Air Act, which authorizes that agency to ''control or prohibit the manufacture, introduction into commerce, offering for sale, or sale'' of a fuel if it determines that use of the fuel will impair emission control systems or have other environmental impacts. 42 U.S.C. 7545(c).

[83] EPA prohibited the use of E15 in MY2000 and older vehicles, heavy-duty gasoline engines and vehicles, motorcycles, and all nonroad products (which includes marine applications), ''based on potential effects of E15 in four areas: (1) Exhaust emissions—immediate and long-term (known as durability); (2) evaporative emissions—immediate and long-term; (3) the impact of materials compatibility on emissions; and (4) the impact of driveability and operability on emissions.'' *EPA Waiver Decision II,* 76 FR at 4663. Later, in EPA's *Final Rule to Mitigate Misfueling,* EPA explained that its ''engineering assessment for these vehicles, engines, and products identifies a number of emission-related concerns with the use of E15.'' 76 FR at 44439.

[84] *EPA Waiver Decision I,* 75 FR at 68103.

[85] *Id.*

[86] EPA found that tests cited by Growth Energy in its waiver application were not sufficient to show a lack of potential harm to older vehicles. *Id.* at 68104.

[87] *Id.* at 68095. Currently, it is illegal to distribute ethanol blends above 15 percent concentration for use in conventional vehicles. 42 U.S.C. 7545(f).

[88] EPA did not address the emissions impacts of blends above E15 for newer, light-duty conventional vehicles. *See Final Rule to Mitigate Misfueling,* 76 FR at 44417. However, it is currently illegal to distribute those blends for use in conventional vehicles because EPA has not granted a waiver allowing ethanol blends in those vehicles. *See* 42 U.S.C. 7545(f).

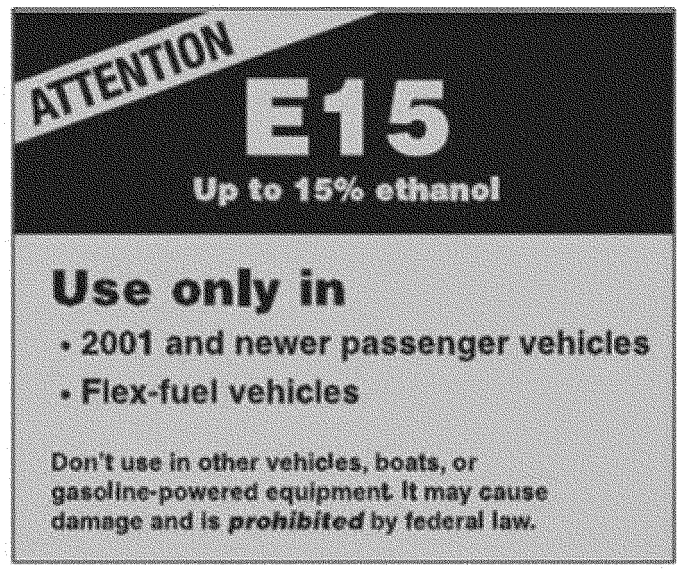
[89] *Final Rule to Mitigate Misfueling,* 76 FR at 44411; *see also* 40 CFR 80.1504(a) (amendment as codified).

ethanol into such vehicles, engines, and products.[90]

Section 80.1506 of the final rule provides that any person who misfuels ''is subject to an administrative or civil penalty, as specified in sections 205 and 211(d) of the Clean Air Act, for every day of each violation and the amount of economic benefit or savings resulting from the violation.'' [91]

2. EPA's Labeling Requirements

EPA also promulgated labeling requirements to prevent misfueling of E15 in non-approved engines. In formulating its E15 label, EPA ''consulted with FTC consumer labeling experts and other staff about effective label design and potential coordination with FTC labels.'' [92] As a result, EPA's final E15 label, shown below, ''adopts FTC's color scheme for alternative fuel labels and other aspects of the design of FTC's proposed gasoline-ethanol blend labels, such as size, shape, and font . . . .'' [93] In addition, EPA's label included the warning: ''Don't use in other vehicles, boats, or gasoline-powered equipment. It may cause damage and is *prohibited* by federal law.'' [94]




EPA explained that this ''damage statement'' was ''necessary and appropriate for the E15 label . . . because (1) [a]vailable data is insufficient to show that E15 would not cause or contribute to a failure by these products to meet emission standards, and (2) [EPA's] engineering judgment is that E15 may adversely affect the emissions control performance of these products, particularly over time.'' [95] EPA continued:

> A statement that E15 use in those products 'may cause damage' is consistent with and supported by EPA's technical analysis for its decision to deny the waiver request for introduction of E15 into commerce for use in these products. Including the damage statement is also critical to the effectiveness of the E15 label, since consumers are more likely to comply with the label's direction if they understand that harm might otherwise occur.[96]

*C. ASTM Ethanol Specification*

In proposing labeling requirements, the 2010 NPRM relied in part on ASTM's specification for high concentration ethanol blends, ASTM D5798. At that time, ASTM D5798 characterized ethanol blends of at least 70 percent concentration as ''E85.'' Therefore, the Commission proposed amendments differentiating E85 and lower concentration ethanol blends.

Two commenters objected. Growth Energy and API both noted that, subsequent to publication of the NPRM, ASTM had lowered the E85 blend threshold, making the ''85'' number less useful to consumers.[97] API noted that ASTM was considering lowering the blend threshold even further, and urged the Commission to ''draft the rule to allow for such changes.'' [98] In addition, Growth Energy noted that ''E85 is problematic'' because it ''does not represent[ ] the true ethanol concentration of all fuels'' labeled as such and, therefore, recommended a ''new name'' for the fuel.[99]

After the comment period closed, ASTM further lowered D5798's concentration threshold and ceased using the term ''E85.'' The standard now applies to fuels of at least 51 percent concentration and replaces the term ''E85'' with ''Ethanol Flex-Fuel.''

*D. Comments Supporting the Infrared Method*

Several commenters supported amending the Fuel Rating Rule to allow use of the Infrared Method as an additional octane rating method. Tesoro, a manufacturer and marketer of petroleum products, explained that the Infrared Method provides more precise and accurate results, an ability to sample gasoline more efficiently, and reduced costs to industry.[100] Specifically, Tesoro reported:

[90] *Final Rule to Mitigate Misfueling,* 76 FR at 44437 (emphasis in original). This misfueling prohibition does not extend to ethanol-blend use in newer conventional vehicles.

[91] 40 CFR 80.1506 (amendment as codified); *see also* 76 FR at 44449 .

[92] *Final Rule to Mitigate Misfueling,* 76 FR at 44408.

[93] *Id.*

[94] *Id.* at 44418.

[95] *Id.* at 44414.

[96] *Id.* at 44415.

[97] Growth Energy comment at 4–5; API comment at 2.

[98] API comment at 2. RFA argued that the FTC lacked authority to define new fuels such as ''Mid-Level Ethanol blends'' as ''alternative fuels,'' pointing to a definition of that term in the Energy Policy Act of 1992 authorizing DOE to determine which fuels qualify as alternative fuels. RFA comment at 4.

[99] Growth Energy comment 4, 5.

[100] Tesoro comment at 1–2. Tesoro also submitted additional material to Commission staff during the

A recent interlaboratory study was conducted to demonstrate the accuracy and precision of infrared analyzers for octane. Based on the results of that study involving six laboratories, near infrared analyzers showed significantly better precision over ASTM D2699 and D2700 octane [methods].[101]

Tesoro further reported that, due in part to greater reliability, ''[o]ver 25 states use infrared analyzers for screening fuel samples [to test octane levels] in the field as well as in the laboratory.'' [102]

Tesoro further suggested that the Commission could ensure the accuracy of infrared method ratings by providing that, in the case of a discrepancy between infrared results and results derived through the traditional ASTM D2699 and D2700 methods, the D2699/2700 methods would be the ''referee test.'' [103]

Tesoro recommended amending the Rule to allow the method only insofar as the method conforms to ASTM D6122, ''Standard Practice for Validation of the Performance of Multivariate Infrared Spectrophotometers,'' and as set out in that protocol to correlate with the ASTM D2699 and D2700 methods.[104] In addition, Tesoro submitted specific language to effect its proposed change.[105]

Several state regulators also supported approving the infrared method. For example, the Washington State Department of Agriculture reported that it ''has used portable infrared octane analyzers successfully in the field to test octane levels on gasoline motor fuels for over 10 years'' and that it has ''found portable infrared analyzers to be an accurate and low cost tool in determining octane level compliance.'' [106] Additionally, the National Conference on Weights and Measures (''NCWM'') provided a survey showing that 17 of 24 regulatory agencies surveyed use the Infrared Method to determine if fuel dispensed at a pump has the same octane rating as posted on the label.[107]

Significantly, the CAS supported the method. CAS explained that allowing the method would ease enforcement and, therefore, benefit consumers:

> Many states now use infrared analyzers to determine octane because they are cheaper, more accurate and permit greater number[s] of dispensing pump inspections per day than using octane engines. . . . Approving infrared analyzers calibrated to measure octane would allow greater levels of enforcement and increased quality control by refiners at lower cost.[108]

## IV. Proposed Rule Amendments

In light of the comments, EPA's waiver decision, and the revision to ASTM D5798, the Commission now proposes: (1) New requirements for rating, certification, and labeling of ethanol blends; and (2) amendments allowing use of the Infrared Method.

### *A. Ethanol Fuel Amendments*

The following proposed amendments require labels for ethanol blends, excluding EPA-approved E15, to state ''USE ONLY IN FLEX-FUEL VEHICLES/MAY HARM OTHER ENGINES'' and to disclose the percentage ethanol content rounded to the nearest interval of 10. These amendments differ from those proposed in the 2010 NPRM in four ways. First, the new amendments do not distinguish between ''mid-level ethanol blends'' and ''E85.'' As noted by API and Growth Energy, the term ''E85'' no longer accurately describes higher concentration ethanol blends and, therefore, could confuse consumers about such fuel's ethanol concentration. Second, the new proposed amendments revise the disclosures in light of views from both ethanol-industry commenters and those arguing for a stronger label using ''flex-fuel vehicle only'' and a more precise concentration disclosure. Third, the amendments address the request for additional language to prevent misfueling harm to non flex-fuel vehicles and engines. Finally, the amendments exempt fuel that meets EPA's E15 waiver.

The discussion below first describes the amendments and then explains the Commission's legal authority to promulgate them.

#### 1. Definitions

In order to establish requirements for rating, certifying, and labeling ethanol blends, the 2010 NPRM proposed using the term ''mid-level ethanol blend'' to describe blends of over 10, but not more than 70, percent ethanol and adding that term to the Rule's list of alternative fuels. Although the 2010 NPRM did not propose defining ethanol blends at greater concentrations, it did propose a separate label for such fuels that would describe the fuel as ''E85.''

Based on ASTM amendments, providing different labels for ''mid-level'' blends and ''E85'' is no longer appropriate. The revised D5798 does not use the term ''E85,'' and there is no other basis in the record to distinguish between blends above and below that concentration. Moreover, as Growth Energy noted, allowing labels to use ''E85'' to described fuels meeting the revised D5798's concentration level of 51 percent could mislead consumers.

Thus, the Commission now proposes adding to the Fuel Rating Rule's non-exhaustive alternative fuel list a single, new defined term, ''ethanol blend,'' that covers all concentrations of ethanol blends above 10 percent.[109] This will facilitate uniform labeling requirements for ethanol blends, which should assist consumers in quickly identifying ethanol blends at pumps.[110]

#### 2. Rating and Certification

The Commission reaffirms its 1993 determination that ''another form of rating'' is more appropriate for ethanol blends than an octane rating.[111] Requiring octane ratings for ethanol blends might incorrectly suggest that those blends are interchangeable with gasoline. As discussed in the 1993 rulemaking, not only would an octane rating not provide useful information to consumers, it might deceive them about the suitability of the fuel for their vehicles. Ethanol blends have naturally occurring high octane levels. Conventional vehicle owners might misinterpret those blends' higher octane content as signifying that they are better for conventional gasoline engines.[112]

Consistent with this finding, the 2010 NPRM proposed new rating and certification provisions to clarify that

comment period, which is included in the record and available on the same Web page as the comments.

[101] *Id.* at 2.

[102] *Id.* at 4.

[103] *Id.* at 6.

[104] *Id.* at 7.

[105] *Id.* at 8. Petroleum industry members and representatives ConocoPhillips, Flint Hills Resources LP, Marathon, Suncor Energy USA, NPRA, and Valero Energy Corporation (''Valero'') also supported the Infrared Method. ConocoPhillips comment at 2; Flint Hills Resources comment; Marathon comment at 2; Suncor Energy USA comment; NPRA comment at 3; Valero comment at 1.

[106] Washington State Department of Agriculture comment; *see also* Massachusetts Division of Standards comment (supporting the Infrared Method); Nevada Department of Agriculture comment (same); North Carolina Department of Agriculture and Consumer Services comment (same).

[107] NCWM comment at 3–4.

[108] CAS comment at 2.

[109] As explained below, the new proposed amendments would exempt EPA-approved E15 from the Rule's labeling requirements, provided that retailers use EPA's required label.

[110] The new term would be codified at § 306.0(i)(2)(iii). RFA argued that this section should not include ethanol blends as alternative fuels because the Energy Policy Act of 1992 specifies DOE as the agency that determines whether fuels are ''alternative'' for certain purposes. RFA's argument is inapposite because the Commission's rulemaking is under PMPA, which authorizes the FTC to provide labeling for all liquid automotive fuels, regardless of whether they are also designated as alternative by DOE. *See* 15 U.S.C. 2821(6).

[111] *See* 15 U.S.C. 2821(17); *1993 Final Rule,* 58 FR 41361.

[112] *1993 Final Rule,* 58 FR at 41361.

covered entities must rate ethanol blends by ''the percentage of ethanol contained in the fuel,'' and not by the percentage of the principal component of the fuel. This change is necessary to require ethanol-content labeling for blends below 50 percent concentration. Two commenters supported this change,[113] and no commenters took issue with the proposal. Accordingly, the amendments proposed today require rating ethanol blends by ethanol content.

The 2010 NPRM also proposed an amendment providing that a certification of ethanol content letter remains valid only as long as the fuel transferred contains the same percentage of ethanol as previous fuel transfers covered by the letter.[114] For most alternative fuels, a certification letter remains valid if a transferred fuel has the same or a higher concentration than certified because an increase in concentration will not trigger different labeling requirements. An increase or decrease in concentration for ethanol blends, however, may trigger different concentration disclosures. For example, if a fuel's ethanol concentration increases from 26 percent to 38 percent, the label, as discussed below, must disclose a higher concentration level. No commenter objected to the 2010 proposal; therefore, the Commission proposes it again here.

3. Labeling

The 2010 NPRM proposed adding new labeling requirements for ethanol blends. The proposed amendments required labels disclosing the fuel's suitability for different vehicles by stating:

MAY HARM SOME VEHICLES
CHECK OWNER'S MANUAL

The proposed amendments also would have required ethanol blends below 70 percent concentration to disclose that the fuels contained between 10 to 70 percent ethanol, a narrower range, or the precise amount of ethanol in the blend.

Commenters generally objected to both the disclosures and the 10–70 content range. They also urged the Commission to coordinate with EPA to prevent duplicative or inconsistent labeling requirements. The new proposed amendments address both issues.

a. Text

Some commenters objected that the 2010 NPRM advisory disclosure was excessive, and others objected that it was insufficient. Ethanol-industry commenters asserted that: (1) The record did not establish that ethanol blends would harm conventional vehicles; (2) the disclosure was unnecessary; (3) the disclosure would discourage proper use of ethanol blends; and (4) requiring the additional disclosure would be unfair. Conversely, some commenters argued for stronger and more precise language, noting the EPA prohibition on use in conventional vehicles, risk of engine damage, damage to the vehicle's emissions system, and other problems.

Nevertheless, all but one of the comments [115] supported a ''use only in flex-fuel vehicles'' disclosure. In addition, NCWM has adopted model state regulations requiring ethanol fuel labels that state ''For Use in Flexible Fuel Vehicles (FFV) Only.'' [116] Many commenters also stressed the need for additional disclosures to prevent misfueling.

In light of these comments, the new proposed amendments replace the 2010 NPRM's proposed disclosure with ''USE ONLY IN FLEX-FUEL VEHICLES/MAY HARM OTHER ENGINES.'' These two disclosures should explain the significance of the ethanol-concentration rating without misleading flex-fuel vehicle owners about the fuel's suitability for their cars. Specifically, ''USE ONLY IN FLEX-FUEL VEHICLES'' provides a simple, unambiguous direction to consumers that they can use ethanol blends in their flex-fuel vehicles. This direction eliminates the need for consumers to consult their owner's manuals. And, ''MAY HARM OTHER ENGINES'' alerts consumers that use in other engines may have serious consequences.

Given consumers' unfamiliarity with ethanol blends, a bare ethanol-concentration disclosure will not provide sufficient information for many consumers to understand whether the fuel is appropriate for their engines. Accordingly, the proposed text conveys the significance of the ethanol concentration and the potential risk of damage to consumers' cars, which are often among their most expensive purchases. Additionally, this disclosure should alert consumers not to use the fuel in their non-vehicular engines (*e.g.,* lawn mowers, motor boats).[117]

Ethanol-industry commenters' criticism of the 2010 NPRM's labels is either inapplicable to the revised disclosures or unpersuasive. The Energy Independence and Security Act's renewable fuel mandate will likely ensure that ethanol blends are an increasing part of the fuel market, thereby exposing many more consumers to pumps dispensing those blends.[118] The record, however, shows a risk that misfueling may harm conventional vehicles and non-road engines.[119] As EPA explained, ''[e]thanol impacts motor vehicles in two primary ways. First, . . . ethanol enleans the [air/fuel] ratio (increases the proportion of oxygen relative to hydrocarbons) which can lead to increased exhaust gas temperatures and potentially increase incremental deterioration of emission control hardware and performance over time, possibly causing catalyst failure. Second, ethanol can cause materials compatibility issues, which may lead to other component failures.'' [120]

EPA ultimately held that these general concerns were allayed only with regard to the use of E15 in light-duty conventional vehicles MY2001 and newer. However, that agency also found, based on its technical and engineering experience, that ethanol potentially damages older conventional cars, heavy-duty engines, motorcycles, and non-road engines, explaining:

> Older motor vehicles, heavy-duty gasoline engines and vehicles, motorcycles, and especially nonroad products cannot fully compensate for the change in the stoichiometric air-to-fuel ratio as ethanol concentration increases. Over time, this enleanment caused by ethanol may lead to thermal degradation of the emissions control hardware and ultimately catalyst failure. Higher ethanol concentration will exacerbate the enleanment effect in these vehicles, engines, and equipment and therefore

[113] PMAA comment at 1; Tennessee Department of Agriculture comment at 1.

[114] Section 306.6(b) allows fuel transferors to provide certifications through a letter to the transferee rather than through a document accompanying each fuel shipment.

[115] RFA comment at 8 (arguing that ethanol-content disclosure is sufficient).

[116] MDA comment at 2. NCWM's comment did not address this issue.

[117] The Commission declines to require additional language suggested by commenters. The specificity of the proposed disclosure should sufficiently apprise owners of conventional vehicles and non-automotive devices that ethanol fuels are not appropriate for their engines. Furthermore, additional language may dilute the disclosures' message and lessen their effectiveness.

[118] *See 2010 NPRM,* 75 FR at 12471. On November 15th, EPA proposed reducing the 2014 renewable mandate due to a limited market and production capacity for renewables. *See Proposed 2014 Standards for the Renewable Fuel Standard Program, 40 CFR Part 80,* 78 FR 71732 (Nov. 29, 2013). However, EPA indicated that it remained committed to increasing the amount of renewable fuel in the market. *See id.* at 71738 (''[O]ur intent is to develop an approach that puts the [Renewable Fuel Standard] program on a manageable trajectory while supporting continued growth in renewable fuels over time.'').

[119] *See* section III.A.2.b, *supra.*

[120] *EPA Waiver Decision I,* 75 FR at 68103.

increase the potential of thermal degradation and risk of catalyst failure. In addition to enleanment, ethanol can cause materials compatibility issues which may lead to other component failure and ultimately exhaust and/or evaporative emission increases. . . . For older motor vehicles, heavy-duty gasoline engines and vehicles, motorcycles, and nonroad products, the potential for materials compatibility issues increases with higher ethanol concentration.[121]

The Commission seeks evidence regarding the harm or benefits of ethanol blends to non flex-fuel engines, including newer conventional vehicles.[122]

The lack of EPA approval for ethanol blends, other than E15, in non flex-fuel engines further supports a label with the two-prong notice. Specifically, distribution of such blends to non flex-fuel vehicles is prohibited by the Clean Air Act.[123] In addition, EPA regulations expose consumers and retailers to liability for misfueling MY 2000 and older light-duty vehicles, as well as all motorcycles, heavy-duty vehicles, and non-road engines.[124] Therefore, consumers need clear guidance regarding the engines for which those blends are appropriate, so that they can make an informed choice.

The commenters' other concerns are also not persuasive. The concern that the 2010 NPRM's ''MAY HARM SOME VEHICLES'' disclosure would lead flex-fuel vehicle owners to wrongly conclude that their vehicles fit into the ''some'' category does not apply to the revised disclosure. Although ''MAY HARM OTHER ENGINES'' is similar, it does not raise the same concern because it emphasizes that the fuel potentially harms only ''other'' (*i.e.,* non flex-fuel) engines. In addition, the new disclosures advise, more prominently and in larger text, that the fuel is indeed suitable for flex-fuel vehicles. This disclosure would also appear appropriate even if, at this rulemaking's conclusion, the record is unsettled about whether ethanol blends are suitable for some newer model conventional vehicles. The proposed disclosure states only that the fuel ''may'' harm other engines, not that it would necessarily harm all such engines.

The Commission also disagrees with the claim that any disclosures are unfair because they apply only to ethanol blends. EPA has promulgated extensive rules to mitigate potential misfueling of EPA-approved E15. The Commission has no evidence indicating that other alternative fuels carry a similar risk. If the Commission obtains evidence demonstrating that another fuel poses similar misfueling and consumer confusion risks, the Commission will consider similar suitability ratings for those fuels.[125] In promulgating regulations, agencies need not take an all-or-nothing approach but may proceed incrementally.[126]

b. Percentage Disclosure

The 2010 NPRM proposed requiring that ethanol blends below 70 percent concentration have a label disclosing that the fuel contained between 10 and 70 percent ethanol. Retailers would have had the option of disclosing a narrower range or an exact percentage. Commenters generally favored requiring a more precise content disclosure because fuels with higher concentrations of ethanol have worse fuel economy. In addition, commenters noted that future vehicle fleets might have varying ethanol tolerances, which will require more precise content disclosures. Significantly, both ethanol-industry and other commenters supported such disclosures.

In light of these comments, the Commission proposes requiring ethanol percentage disclosures rounded to the nearest factor of 10 (*e.g.,* retailers can label fuels at 26 and 34 percent concentrations as 30% Ethanol).[127] Requiring this more precise disclosure would help flex-fuel vehicle owners make informed choices about ethanol blends, while presenting consumers with numbers that are easy to use.[128] Rounding also benefits retailers by allowing them to alter their blends by small percentages without the expense of changing labels. However, the Commission notes that consumers purchasing ethanol blends with rounded-down disclosures may receive less than expected fuel efficiency. Thus, the Commission invites comment on the costs and benefits of this approach for retailers and consumers.

c. Label Specifications

The proposed amendments retain the size, font, and format requirements proposed in the 2010 NPRM.[129] These requirements are consistent with those in place for most of the alternative liquid fuels covered by the Rule. The new proposed amendments require Helvetica Black type, or equivalent type style, as the Rule requires for all other labels. They also propose a sample ethanol fuel label.[130]

The proposed ethanol fuel label requires an orange background (PMS 1495 or its equivalent). Orange is the color for all alternative fuels except biodiesel and will enable retail consumers to distinguish ethanol blends from gasoline. Several ethanol-industry commenters objected to orange, asserting that it is associated with caution and, thus, places the fuel at a competitive disadvantage. The Commission disagrees.

First, because the Rule currently requires an orange label for almost all alternative fuels (including ethanol blends), excepting ethanol blends would result in inconsistent treatment. Second, orange, a bright color, will help ensure that consumers notice the label and, therefore, prevent misfueling. Finally, EPA's E15 label uses the same orange background to coordinate with the FTC. Therefore, using orange will promote a consistent labeling scheme for all ethanol blends.

A proposed sample label is at the end of this document. The Commission invites comment on how consumers will perceive and understand the label's information about the rating, and whether the label will prevent misfueling.

d. E15 Exemption

To prevent consumer confusion and avoid unnecessary burden on industry, the new proposed amendments exempt fuel meeting EPA's E15 waiver from labeling requirements. The Commission provides this exemption for two reasons. First, EPA is better situated to tailor its labeling requirements to reflect

[121] *Final Rule to Mitigate Misfueling,* 40 CFR Part 80, 76 FR at 44439.

[122] The Commission is aware of all studies cited in EPA's waiver decision.

[123] 42 U.S.C. 7545(f).

[124] *Final Rule to Mitigate Misfueling,* 76 FR at 44437. *See also* 40 CFR 80.1504(a)(1) (codification of misfueling prohibition).

[125] The proposed amendments do not adopt CAS' proposal to require separate signs and pump nozzle disclosures or AllSAFE's proposal to require a visible gap between ethanol pumps and other fuel pumps. There is no evidence that such additional steps are necessary to prevent misfueling.

[126] *Investment Co. Inst.* v. *CFTC,* 891 F. Supp. 2d 162, 187 (D.D.C. 2012) (''[A]gencies, like legislatures, do not generally resolve massive problems in one fell regulatory swoop.'') (quotation omitted); *City of Las Vegas* v. *Lujan,* 891 F.2d 927 (D.C. Cir. 1989) (''[A]gencies have great discretion to treat a problem partially.'').

[127] This approach will address concerns of commenters supporting energy-content labeling.

[128] The Commission proposes adopting the Tennessee Department of Agriculture's rounding approach rather than the ethanol-industry commenters' 10 percent tolerance approach because it is simpler.

[129] The new amendments also propose deleting the Rule's sample label for ''E–100'' (*i.e.,* ethanol not mixed with gasoline) because the record does not show any retail sales of such fuels.

[130] The Rule's recordkeeping provisions (16 CFR 306.7, 306.9, and 306.11) without amendment will require covered entities to maintain records supporting the rating of any ethanol fuel they produce, transfer, or sell.

the waiver's evolving scope.[131] Second, exempting EPA-approved E15 from the FTC rule will avoid unduly burdening industry with redundant labels. Moreover, the proposed exemption is narrowly tailored to ensure that only E15 blends that obtain an EPA waiver, and therefore are labeled according to EPA rules, are exempt from the FTC's labeling requirements.

4. PMPA Authorizes the Ethanol Amendments

Growth Energy and RFA argued that PMPA does not authorize the Commission to propose labels with disclosures about ethanol blends' suitability for consumers' vehicles. The Commission disagrees.

PMPA authorizes the Commission to require automotive fuel labels ''displaying the automotive fuel rating of automotive fuel at the point of sale.'' [132] PMPA further defines ''automotive fuel rating'' to include octane ratings; cetane ratings; or ''another form of rating determined by the Federal Trade Commission, after consultation with [ASTM],[133] to be more appropriate to carry out the purposes of this subchapter with respect to the automotive fuel concerned.'' [134]

As the Commission explained in 1993, one of PMPA's purposes is to give ''purchasers the information they need to choose the correct type or grade of fuel for their vehicles.'' [135] For example, the legislative history reveals that Congress designed PMPA to ''increase consumer confidence in and information about motor fuels'' and ensure that ''motorists have a right to know what they are getting and what they are paying for.'' [136] And it expresses specific concern about engine damage and stresses the need ''to assist [motorists] in the purchase of suitable gasoline for their motor vehicles.'' [137]

Accordingly, the Commission determined that PMPA authorizes it to require fuel ratings that inform consumers about the content of alternative fuels to prevent misfueling. In evaluating options for rating alternative fuels, the Commission concluded, ''automotive fuel rating'' encompasses text necessary to ''assure consumers that they are purchasing a product that satisfies automobile engine minimum content requirements, which may be specified in their owner's manuals.'' [138] Thus, since 1993 the Commission has interpreted automotive fuel ratings to include information necessary to prevent misfueling, such as fuel descriptors.[139]

Consistent with its 1993 determination, the Commission finds that the proposed ethanol-content disclosure accompanied by explanatory language regarding the suitability of the fuel is more appropriate than an octane rating for ethanol blends. The proposed disclosures further PMPA's purpose of helping consumers choose the correct fuel and preventing engine damage. Thus, the proposed label appears to fall squarely within the Commission's statutory authority to prescribe labels disclosing fuel ratings.

This interpretation comports with the plain meaning of ''rating,'' which includes ''[t]he value of a property or *condition* that is claimed to be *standard, optimal, or limiting for a device, engine,* etc.; a rated value.'' [140] Significantly, a ''rating'' does not encompass only numeric rankings of superiority or quality, but includes a ''condition'' that is standard or ''limiting'' for engines. Therefore, a rating can consist of a content description and suitability language communicating whether the rated item is proper, or improper, for certain devices, including engines.

One example is film ratings (G, PG, PG13, R, and NC17). Those ratings do not identify any quantity or embody any qualitative score. Instead, they provide guidance on the suitability of particular films for particular audiences, and include explanatory text, *e.g.,* ''PG–13; PARENTS STRONGLY CAUTIONED; SOME MATERIAL MAY BE INAPPROPRIATE FOR CHILDREN UNDER 13.'' [141] Similarly, the FTC's statutory authorization to adopt, for labeling purposes, ''another form of rating'' in lieu of octane measurements encompasses the authority to require labels alerting consumers to the suitability of particular fuel blends for particular engines.

Growth Energy and RFA made four arguments to support their position that the disclosures the Commission proposed in 2010 are inconsistent with the statute. The Commission is inclined to reject these arguments. First, RFA argued that language about a fuel's suitability for certain engines cannot be a rating because it is a ''representation[] as to the quality of the fuel or potential impacts on vehicle performance.'' [142] This is incorrect and inapposite. Neither the statute nor the plain meaning of the term ''rating'' excludes ratings based on fuel quality or performance; even an octane rating constitutes a representation about the fuel's ''quality'' and ''performance'' impact. In any event, the proposed disclosures do not include a generalized ''quality'' description of the fuel, but merely clarify the implication of the fuel's ethanol percentage and its suitability for certain engines in order to prevent misfueling and potential engine damage.

Second, Growth Energy noted PMPA's list of permissible ratings uses the conjunctive ''and'' between octane and cetane ratings, and the disjunctive ''or'' between those two ratings and ''another form of rating.'' Growth Energy argued that this language demonstrates Congress' intent to authorize only octane and cetane ratings or, in their place, a rating that ''would carry out the same purpose'' as these ratings. This language, however, appears to have the opposite import. Specifically, the use of the disjunctive ''or'' after the conjunctive ''and'' signals that the phrase ''another form of rating'' could include types of rating distinct from those linked in the previous conjunctive list. Moreover, the statutory text authorizes the Commission to determine that another form of rating is ''more appropriate to carry out the purposes *of this subchapter.''* (Emphasis supplied). The reference to ''the purposes of this subchapter'' is a reference to PMPA as a whole, which broadly seeks to allow consumers to make informed decisions for all types of fuel, including alternative fuel blends. The Commission, therefore, provisionally concludes that the proposed label is no

[131] As noted above, the EPA waiver allows fuel with 15 percent ethanol in conventional vehicles. If EPA later determines that conventional vehicles can tolerate ethanol concentrations above 15 percent, the Commission can revise the Fuel Rating Rule to accommodate that determination.

[132] 15 U.S.C. 2823(c)(1)(B).

[133] Growth Energy relied on this language to argue that the Commission cannot promulgate alternative fuel ratings without ASTM consultation that is ''subject to public review and comment.'' Growth Energy comment at 13. Growth Energy did not cite any authority for this interpretation. Nonetheless, Commission staff has consulted with ASTM throughout this rulemaking, and, as discussed below, is relying in part on an ASTM standard to justify abandoning a special label for ''E85.''

[134] 15 U.S.C. 2821(17). PMPA also empowers the Commission to define relevant terms used in the statute. 15 U.S.C. 2823(a).

[135] *1993 Final Rule,* 58 FR at 41356.

[136] H. Rep. No. 102–474(I) (1992).

[137] S. Rep. No. 95–731 (1978).

[138] *1993 Final Rule,* 58 FR at 41364–65.

[139] The Rule's current alternative fuel labels require a descriptor at the top of the label that identifies the fuel. For example, retailers must label liquefied petroleum gas as ''LPG.'' 16 CFR 306.10(f)(5).

[140] **Oxford English Dictionary Online (2013**), *http://www.oed.com/view/Entry/158481?rskey=MGAeBQ&result=1&isAdvanced=false#eid* (last visited March 18, 2014) (emphasis added).

[141] *See* Motion Picture Association of America, *How to Read a Rating, www.mpaa.org/ratings/how-to-read-a-rating.*

[142] RFA comment at 3.

less appropriate or consistent with the PMPA's purposes than the ratings the Commission has required for the past 20 years.

Third, Growth Energy argued that the Commission must interpret ''another form of rating'' to be similar in purpose to octane or cetane ratings under the principle of *ejusdem generis,* a canon of statutory construction under which a general term following a specific one is often understood as a reference to subjects akin to the one with the specific enumeration. However, the Supreme Court has held that ''[t]his canon does not control . . . when the whole context dictates a different conclusion.'' [143] That is the case here. Again, when Congress initially enacted PMPA, it pursued a general purpose of ensuring informed consumer choice at the pump, and it specifically directed the FTC to ensure accurate octane metrics because those are the main consumer concerns that arise in connection with the sale of ordinary gasoline. But because Congress understood that consumer-protection concerns will evolve with changes in fuel technology, it deliberately built flexibility into this statutory scheme by allowing the FTC to prescribe ''another form of rating'' that is ''more appropriate'' to carry out the consumer-protection purposes of PMPA. It would appear to defeat, not serve, that congressional policy choice to hamstring the FTC's consumer-protection authority as Growth Energy proposes here.

Finally, both Growth Energy and RFA argued that, notwithstanding the PMPA's plain language authorizing alternative forms of rating, legislative history precludes the Commission's interpretation of the term ''rating'' under PMPA. Specifically, Growth Energy cited statements describing the 1992 PMPA amendments as expanding the statute's octane rating requirements to other fuels. RFA noted that in its 1993 rulemaking, the Commission relied upon statements in the legislative history that consumers ''have a right to know what they pay for.'' [144] However, the history cited by Growth Energy does not preclude the Commission's interpretation, and the history cited by RFA supports the Commission's interpretation. First, the statements cited by Growth Energy simply note the expansion of the statute's coverage to alternative fuels and do not refer specifically to the meaning of ''automotive fuel rating.'' [145] Moreover, to the extent this history could be read as requiring octane ratings for alternative fuels, it is directly contradicted by the statutory language, which explicitly allows ratings other than octane ratings. Finally, the statement cited by RFA declares an intent to ensure that fuel retailers provide consumers with the information they need to choose the correct fuel for their vehicles.[146]

*B. Infrared Method*

All commenters that addressed allowing automotive fuel rating through infrared spectrophotometers supported doing so. Significantly, these commenters included business, consumer groups, and state regulators. Their comments indicate that the infrared method is a more accurate and cost-effective means of measuring octane. Moreover, the record indicates widespread use of the method by state regulatory agencies.

In light of this strong support, the Commission proposes adding the infrared method to the Fuel Rating Rule's list of approved octane rating methods. Specifically, the amendment would allow use of octane measurement by infrared spectrophotometers that are correlated with ASTM D2699 and D2700, the octane rating methods specified in PMPA, and conform to ASTM D6122 (''Standard Practice for the Validation of the Performance of Multivariate Infrared Spectrophotometers''). For businesses, such an amendment should lower costs. For consumers, it should reduce the risk of inaccurate measurements.

The Commission does not propose adopting Tesoro's suggestion to designate D2699 and D2700 as ''referee tests.'' Tesoro appears to be recommending that the Rule provide that a fuel's rating derived through the infrared method is invalid if it differs from the rating derived through D2699 and D2700. However, the record does not show that D2699 and D2700 are superior to the infrared method. Thus, there is no reason to favor one approved rating method over another.

**V. Request for Comment**

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before June 2, 2014. Write ''Fuel Rating Rule Review, 16 CFR Part 306, Project No. 811005'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment doesn't include any sensitive personal information, such as anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, don't include any ''[t]rade secret or any commercial or financial information which is . . . privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names. If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[147] Your comment will be kept confidential only if the FTC General Counsel grants your request in

[143] *Norfolk & W. Ry.* v. *American Train Dispatchers Ass'n,* 499 U.S. 117, 129 (1991).

[144] RFA comment at 2.

[145] Significantly, the cited statements include the observation that one of the PMPA amendments' goals ''is to improve the information available to consumers.'' Growth Energy comment at 8. *See also* H. Rep. No. 102–474(I) (1992) (explaining that ''this legislation attempts to increase confidence in and information about motor fuels); S. Rep. No. 95–731 (1978) (expressing concern about engine damage and noting the need ''to assist [motorists] in the purchase of suitable gasoline for their motor vehicles).

[146] Growth Energy and RFA made two ancillary arguments for a narrow reading of ''automotive fuel rating.'' First, RFA argued that the proposed language is misleading and, therefore, not a proper rating. For reasons explained above, the Commission does not agree that the proposed labels are misleading. Second, Growth Energy argued that before requiring a rating other than an octane or cetane rating, the Commission must consider how the alternative rating furthers the objectives of an octane rating. Growth Energy appears to base this argument on an assumption that PMPA's objective is to require octane ratings for all fuels. As explained above, that view of PMPA's purpose is contrary to its text.

[147] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/autofuelratingscertnprm*, by following the instruction on the web-based form. If this Notice appears at *http://www.regulations.gov,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Fuel Rating Rule Review, 16 CFR Part 306, Project No. R811005'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex N), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this NPRM and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before June 2, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

The Commission invites members of the public to comment on any issues or concerns they believe are relevant or appropriate to the Commission's consideration of proposed amendments. The Commission requests that comments provide factual data upon which they are based. In addition to the issues raised above, the Commission solicits public comment on the following questions and the costs and benefits to industry members and consumers of each of the proposals. These questions are designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted.

1. What evidence exists regarding whether ethanol blends can harm engines, including newer conventional vehicle engines? Is there evidence showing that harm is more likely at higher ethanol-concentration levels, and, if so, what levels?

2. What evidence exists regarding consumers misfueling with ethanol blends? If misfueling is occurring, is it happening with greater frequency in any particular geographical region or with fuel containing any particular ethanol concentration? Do ethanol blend pumps currently contain any disclosures? If so, what do those disclosures say? Are they voluntary or required by state law? Do they effectively prevent misfueling?

3. How would consumers understand the disclosures on the proposed label? Would the ''MAY HARM OTHER ENGINES'' deter any lawful use of ethanol blends? Would ''USE ONLY IN FLEX-FUEL VEHICLES'' alone be sufficient to advise consumers not to use ethanol blends in other engines? Provide all evidence, including consumer surveys or copy tests, supporting your response.

4. What costs on businesses and consumers would the proposed requirement to disclose ethanol content rounded to the nearest tenth impose? What benefits to businesses and consumers would the proposed requirement provide? Provide all evidence supporting your response.

For purposes of the Paperwork Reduction Act, 44 U.S.C. 3501–3521 (''PRA''), the Commission also invites comments on (1) whether the proposed modifications to the current rating, certification, and labeling requirements are necessary and/or will be practically useful; (2) the accuracy of the associated burden estimates; (3) how to improve the quality, utility, and clarity of the labels; and (4) how to minimize further the burden of the collections of information.

Your responses to the points immediately above additionally should be sent to the Office of Management and Budget. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments should instead be sent by facsimile to (202) 395–5167.

## VI. Paperwork Reduction Act

The proposed amendments allowing the infrared method do not impose any burdens because they merely provide an alternative means of compliance. However, the proposed certification and labeling requirements for ethanol blends constitute a ''collection of information'' under the PRA.

Consistent with the Fuel Rating Rule's requirements for other alternative fuels, under the proposed amendments, refiners, producers, importers, distributors, and retailers of ethanol blends must retain, for one year, records of any delivery tickets, letters of certification, or tests upon which they based the automotive fuel ratings that they certify or post.[148] The covered parties also must make these records available for inspection by staff of the Commission and EPA or by persons authorized by those agencies. Finally, retailers must produce, distribute, and post fuel-rating labels on pumps.

In the 2010 NPRM, the Commission provided estimated recordkeeping and disclosure burdens for entities covered under the Rule and sought comment on the accuracy of those estimates. The Commission believes that the changes made since the 2010 NPRM do not affect the previous burden estimates. Below, the Commission discusses those estimates.

The Commission estimated the burden associated with the Rule's recordkeeping requirements for the sale of automotive fuels to be no more than 5 minutes per year (or 1/12th of an hour) per industry member, and no more than 1/8th of an hour per year per industry member for the Rule's disclosure requirements.[149] Consistent with OMB regulations that implement the PRA, these estimates reflect solely the burden incremental to the usual and customary recordkeeping and disclosure activities performed by affected entities in the ordinary course of business. *See* 5 CFR 1320.3(b)(2).

Because the procedures for distributing and selling ethanol blends are not substantially different from those for other fuels, the Commission expects that, consistent with practices in the fuel industry generally, the covered parties will record the fuel rating certification on documents (*e.g.,* shipping receipts) already in use, or will use a letter of certification. Furthermore, the Commission expects that labeling of ethanol-fuel pumps will be consistent, generally, with practices in the fuel industry. Accordingly, the PRA burden will be the same as that for other automotive fuels: 1/12th of an hour per

[148] *See* the Fuel Rating Rule's recordkeeping requirements, 16 CFR 306.7; 306.9; and 306.11.

[149] *See, e.g., Federal Trade Commission: Automotive Fuel Ratings, Certification and Posting: Final Rule on Biodiesel Labeling,* 73 FR at 40161. Staff has previously estimated that retailers of automotive fuels incur an average burden of approximately one hour to produce, distribute, and post fuel-rating labels. Because the labels are durable, staff has concluded that only about one of every eight retailers incur this burden each year. Hence, the Rule's disclosure requirement will impose an annual burden of 1/8th of an hour, on average, per retailer.

year for recordkeeping and 1/8th of an hour per year for disclosure.

The U.S. Department of Energy (''DOE'') indicates 2,667 ethanol retailers nationwide, and the U.S Energy Information Administration indicates 193 ethanol fuel production plants.[150] Thus, assuming that each ethanol retailer and producer will spend 1/12th of an hour per year complying with the proposed recordkeeping requirements, and each ethanol retailer will spend 1/8th of an hour per year complying with the proposed disclosure requirements, the Commission estimates the incremental annual burden to be 238 hours, rounded, for recordkeeping (1/12th of an hour × 2,860 entities) and 333 hours, rounded, for disclosure (1/8th of an hour × 2,667), combined, 571 hours.

Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. Applying an average hourly wage for producers of $30.56, and an average hourly wage for retailers of $10.54 to the estimated affected population, labor costs total $6,338.66 (($30.56 × 16 hours) + ($10.54 × 555 hours)) for recordkeeping and disclosure burden.[151]

The Rule does not impose any capital costs for producers, importers, or distributors of ethanol blends. Retailers, however, do incur the cost of procuring and replacing fuel dispenser labels to comply with the Rule. Staff has previously estimated that the price per automotive fuel label is fifty cents and that the average automotive fuel retailer has six dispensers. PMAA, however, stated that the cost of labels ranges from one to two dollars. Conservatively applying the upper end from PMAA's estimate results in an initial cost to retailers of $12 (6 pumps × $2). Regarding label replacement, staff has previously estimated a dispenser useful life range of 6 to 10 years. Assuming a useful life of 8 years, the mean of that range, replacement labeling will not be necessary for well beyond the relevant time frame, *i.e.,* the immediate 3-year PRA clearance sought. Accordingly, averaging solely the $12 labeling cost at inception per retailer over that period, annualized labeling cost per retailer will be $4. Cumulative labeling cost would thus be $10,668 (2,667 retailers × $4 each, annualized).[152]

## VII. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires an agency to provide an Initial Regulatory Flexibility Analysis with a proposed rule unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 603–605.

The FTC finds that the proposed amendments will not have a significant economic impact on a substantial number of small entities. The amendment allowing alternative octane measurements does not impose any new costs on covered entities because it merely gives those entities the option of using a different octane rating method than what the Rule currently requires. As explained in Section VI above, the Commission expects each ethanol retailer and producer to spend, at most, 5 minutes per year complying with the recordkeeping requirements, and each ethanol retailer to spend 1/8th of an hour per year complying with the new ethanol disclosure requirements.[153] As also explained in Section VI, staff estimates an average hourly wage for producers of $30.56, and for retailers of $10.54. Even assuming that all ethanol producers and retailers are small entities, compliance with the recordkeeping requirements will cost producers an estimated $2.55 ($30.56 × 1/12th of an hour) and cost retailers an estimated $0.88 ($10.54 × 1/12th of an hour). In addition, under the same conservative assumptions, compliance with the disclosure requirements will cost retailers an estimated $1.32 ($10.54. × 1/8th of an hour). Finally, as discussed in Section VI, the Commission estimates annualized capital costs as $4.

This document serves as notice to the Small Business Administration of the agency's certification of no effect. Nonetheless, the Commission has prepared the following analysis.

### *A. Reasons why the Commission is Proposing the Amendments*

The Commission proposes these amendments in response to the emergence of ethanol blends as a retail fuel and the likely increased availability of such blends. As discussed above, the proposed amendments will further PMPA's objective of giving consumers information necessary to choose the correct fuel for their vehicles.

### *B. Statement of the Objectives and Legal Basis of the Amendments*

These amendments provide requirements for rating and certifying ethanol blends and requirements for labeling blends of more than 10 percent ethanol, with an exemption for EPA-approved E15. Thus, they provide a mechanism for fuel pumps dispensing ethanol blends to post a rating that will alert consumers to the fuel's ethanol content and the suitability of that fuel for their vehicles, pursuant to PMPA, 15 U.S.C. 2801 *et seq.*

### *C. Estimate of the Number of Small Entities to Which the Proposed Amendments Will Apply*

Retailers of ethanol blends will be classified as small businesses if they satisfy the Small Business Administration's relevant size standards, as determined by the Small Business Size Standards component of the North American Industry Classification System (''NAICS''). The closest NAICS size standard relevant to this rulemaking is for ''Gasoline Stations with Convenience Stores.'' That standard classifies retailers with a maximum $27 million in annual receipts as small businesses.[154] As discussed above, DOE reports 2,667 ethanol fueling stations.[155] DOE does not provide information on those retailers' revenue. Therefore, the Commission seeks comment on how many of those retailers qualify as small businesses.

### *D. Projected Reporting, Recordkeeping, and Other Compliance Requirements*

The proposed amendments make clear that the Fuel Rating Rule's recordkeeping, certification, and labeling requirements apply to ethanol blends. Small entities potentially affected are producers, importers, distributors, and retailers of those blends. The Commission expects that the recordkeeping, certification, and labeling tasks are done by industry members in the normal course of their business. Accordingly, we do not expect the proposed amendments to require any professional skills beyond those

[150] *See http://www.afdc.energy.gov/fuels/ethanol_locations.html* (last visited Feb. 26, 2014); *http://www.eia.gov/petroleum/ethanolcapacity/* (last visited Feb. 26, 2014).

[151] *See http://www.bls.gov/iag/tgs/iag211.htm#earnings* (Bureau of Labor Statistics, December 2013 Current Employment Statistics, Average Hourly Earnings for Oil and Gas Extraction Production and Nonsupervisory Employees); *http://www.bls.gov/iag/tgs/iag447.htm* (Bureau of Labor Statistics, December 2013 Current Employment Statistics, Average Hourly Earnings for Gasoline Station Production and Nonsupervisory Employees).

[152] This reflects strictly the incremental (and annualized) PRA costs of the ethanol amendments. Cumulative capital/non-labor costs for the current Rule under existing OMB clearance (Control No. 3084–0068) is $88,600.

[153] The Commission assumes that ethanol-blend producers and distributors would determine the ethanol percentage in their blends and include it with the blends' transfer documents.

[154] *See http://www.sba.gov/content/small-business-size-standards.* (last visited Dec. 31, 2013).

[155] *See www.afdc.energy.gov/afdc/fuels/stations_counts.html* (last visited Dec. 31, 2013).

already employed by industry members, namely, administrative.

*E. Identification of Overlapping Federal Rules*

The Commission is not aware of any relevant Federal Rules that would duplicate, overlap, or conflict with the proposed amendments. The amendments specifically exempt EPA-approved E15 blends, which must be labeled under EPA rules.

*F. Alternatives Considered*

As explained above, PMPA requires retailers of liquid automotive fuels to post labels at the point of sale displaying those fuels' ratings. The posting requirements in the proposed amendments are minimal and, as noted above, do not require creating any separate documents because covered parties may use documents already in use, such as invoices, to certify a fuel's rating. Moreover, the Commission cannot exempt small businesses from the Rule and still communicate fuel rating information to consumers. Furthermore, the amendments minimize what, if any, economic impact there is from the labeling requirements. Finally, because PMPA requires point-of-sale labels, the Rule must require retailers to incur the costs of posting those labels. Therefore, the Commission concludes that there are no significant alternative measures that would accomplish the objectives of PMPA and further minimize the burden on small entities.

## VIII. Public Hearings

Persons desiring a public hearing should notify the Commission no later than May 5, 2014. If there is interest in a public hearing, it will take place at a time and date to be announced in a subsequent notice. If a hearing is held, persons desiring an appointment to testify must submit to the Commission a complete statement in advance, which will be entered into the record in full. As a general rule, oral statements should not exceed 10 minutes. If there is a hearing, the Commission will provide further instructions in a notice announcing the hearing.

## IX. Communications by Outside Parties to the Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor will be placed on the public record. See 16 CFR 1.26(b)(5).

## X. Proposed Rule

**List of Subjects in 16 CFR Part 306**

Fuel ratings, Trade practices, Incorporation by reference.

For the reasons discussed in the preamble, the Federal Trade Commission proposes to amend title 16, chapter I, subchapter C, of the Code of Federal Regulations, part 306, as follows:

## PART 306—AUTOMOTIVE FUEL RATINGS, CERTIFICATION AND POSTING

■ 1. The authority citation for part 306 continues to read as follows:

**Authority:** 15 U.S.C. 2801 *et seq.;* 42 U.S.C. 17021.

■ 2. Amend § 306.0 by revising paragraphs (b), (i), and (j), and adding paragraph (o), to read as follows:

**§ 306.0 Definitions.**

* * * * *

(b) *Research octane number and motor octane number.* (1) These terms have the meanings given such terms in the specifications of ASTM International (''ASTM'') entitled ''Standard Specification for Automotive Spark-Ignition Engine Fuel (published November 2010)'' designated D4814–10b and, with respect to any grade or type of gasoline, are determined in accordance with one of the following test methods or protocols:

(i) ASTM D2699–09, ''Standard Test Method for Research Octane Number of Spark-Ignition Engine Fuel (published November 2009)'' and ASTM D2700–09, ''Standard Test Method for Motor Octane Number of Spark-Ignition Engine Fuel (published November 2009)'';

(ii) ASTM D2885–10, ''Standard Test Method for Determination of Octane Number of Spark-Ignition Engine Fuels by On-Line Direct Comparison Technique (published March 2010);'' or

(iii) ASTM D6122–10, ''Standard Practice for Validation of the Performance of Multivariate Infrared Spectrophotometers,'' which is correlated with ASTM D2699–09 and ASTM D2700–09.

(2) The incorporations by reference of ASTM D4814–10b, ASTM D6122–10, ASTM D2699–09, ASTM D2700–09, and ASTM D2885–10 in paragraph (b)(1) of this Section, and in § 306.5(a), were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ASTM D4814–10b, ASTM D6122–10, ASTM D2699–09, ASTM D2700–09, and ASTM D2885–10, may be obtained from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428, or may be inspected at the Federal Trade Commission, Public Reference Room, Room 130, 600 Pennsylvania Avenue NW, Washington, DC, or at the National Archives and Records Administration (''NARA''). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

* * * * *

(i) *Automotive fuel.* This term means liquid fuel of a type distributed for use as a fuel in any motor vehicle, and the term includes, but is not limited to:

(1) Gasoline, an automotive spark-ignition engine fuel, which includes, but is not limited to, gasohol (generally a mixture of approximately 90 percent unleaded gasoline and 10 percent ethanol) and fuels developed to comply with the Clean Air Act, 42 U.S.C. 7401 et seq., such as reformulated gasoline and oxygenated gasoline; and

(2) Alternative liquid automotive fuels, including, but not limited to:

(i) Methanol, denatured ethanol, and other alcohols;

(ii) Mixtures containing 85 percent or more by volume of methanol and/or other alcohols, excluding ethanol (or such other percentage, as provided by either the Secretary of the United States Department of Energy, by rule), with gasoline or other fuels;

(iii) Ethanol blends;

(iv) Liquefied natural gas;

(v) Liquefied petroleum gas;

(vi) Coal-derived liquid fuels;

(vii) Biodiesel;

(viii) Biomass-based diesel;

(ix) Biodiesel blends containing more than 5 percent biodiesel by volume; and

(x) Biomass-based diesel blends containing more than 5 percent biomass-based diesel by volume.

* * * * *

(j) *Automotive fuel rating* means. (1) For gasoline, the octane rating.

(2) For an alternative liquid automotive fuel other than biodiesel, biomass-based diesel, biodiesel blends, biomass-based diesel blends, and ethanol blends, the commonly used name of the fuel with a disclosure of the amount, expressed as the minimum percentage by volume, of the principal component of the fuel. A disclosure of other components, expressed as the minimum percentage by volume, may be included, if desired.

(3) For biomass-based diesel, biodiesel, biomass-based diesel blends with more than 5 percent biomass-based diesel, and biodiesel blends with more than 5 percent biodiesel, a disclosure of the biomass-based diesel or biodiesel

component, expressed as the percentage by volume.

(4) For ethanol blends, a disclosure of the ethanol component, expressed as the percentage by volume and the text ''USE ONLY IN FLEX-FUEL VEHICLES/MAY HARM OTHER ENGINES.''

* * * * *

(o) *Ethanol blend* means a mixture of gasoline and ethanol containing more than 10 percent ethanol;

■ 3. Revise § 306.5 to read as follows:

**§ 306.5 Automotive fuel rating.**

If you are a refiner, importer, or producer, you must determine the automotive fuel rating of all automotive fuel before you transfer it. You can do that yourself or through a testing lab.

(a) To determine the automotive fuel rating of gasoline, add the research octane number and the motor octane number and divide by two, as explained by ASTM D4814–10b, ''Standard Specifications for Automotive Spark-Ignition Engine Fuel,'' (incorporated by reference, see § 306.0(b)(2)). To determine the research octane and motor octane numbers you may do one of the following:

(1) Use ASTM standard test method ASTM D2699–09, ''Standard Test Method for Research Octane Number of Spark-Ignition Engine Fuel'' (incorporated by reference, see § 306.0(b)(2)), to determine the research octane number, and ASTM standard test method ASTM D2700–09, ''Standard Test Method for Motor Octane Number of Spark-Ignition Engine Fuel'' (incorporated by reference, see § 306.0(b)(2)), to determine the motor octane number;

(2) Use the test method set forth in ASTM D2885–10, ''Standard Test Method for Determination of Octane Number of Spark-Ignition Engine Fuels by On-Line Direct Comparison Technique'' (incorporated by reference, see § 306.0(b)(2)); or

(3) Use a multivariate infrared spectrophotometer, as described in Section 6.1.1 of ASTM D6122–10, ''Standard Practice for Validation of the Performance of Multivariate Infrared Spectrophotometers,'' to determine the research octane number and the motor octane number following the procedures set forth in ASTM D6122–10 to correlate the measured research and motor octane numbers with the results of test methods ASTM D2699–09 and ASTM D2700–09 (incorporated by reference, see § 306.0(b)(2)).

(b) To determine automotive fuel ratings for alternative liquid automotive fuels other than ethanol blends, biodiesel blends, and biomass-based diesel blends, you must possess a reasonable basis, consisting of competent and reliable evidence, for the percentage by volume of the principal component of the alternative liquid automotive fuel that you must disclose. In the case of biodiesel blends, you must possess a reasonable basis, consisting of competent and reliable evidence, for the percentage of biodiesel contained in the fuel. In the case of biomass-based diesel blends, you must possess a reasonable basis, consisting of competent and reliable evidence, for the percentage of biomass-based diesel contained in the fuel. In the case of ethanol blends, you must possess a reasonable basis, consisting of competent and reliable evidence, for the percentage of ethanol contained in the fuel. You also must have a reasonable basis, consisting of competent and reliable evidence, for the minimum percentages by volume of other components that you choose to disclose.

■ 4. Revise § 306.6(b) to read as follows:

**§ 306.6 Certification.**

* * * * *

(b) Give the person a letter or other written statement. This letter must include the date, your name, the other person's name, and the automotive fuel rating of any automotive fuel you will transfer to that person from the date of the letter onwards. Octane rating numbers may be rounded to a whole or half number equal to or less than the number determined by you. This letter of certification will be good until you transfer automotive fuel with a lower automotive fuel rating, except that a letter certifying the fuel rating of biomass-based diesel, biodiesel, a biomass-based diesel blend, a biodiesel blend, or an ethanol blend will be good only until you transfer those fuels with a different automotive fuel rating, whether the rating is higher or lower. When this happens, you must certify the automotive fuel rating of the new automotive fuel either with a delivery ticket or by sending a new letter of certification.

* * * * *

■ 5. Revise § 306.10(a) and (f) to read as follows:

**§ 306.10 Automotive fuel rating posting.**

(a) If you are a retailer, you must post the automotive fuel rating of all automotive fuel you sell to consumers. You must do this by putting at least one label on each face of each dispenser through which you sell automotive fuel. If you are selling two or more kinds of automotive fuel with different automotive fuel ratings from a single dispenser, you must put separate labels for each kind of automotive fuel on each face of the dispenser. Provided, however, that you do not need to post the automotive fuel rating of a mixture of gasoline and ethanol containing more than 10 but not more than 15 percent ethanol if the face of the dispenser is labelled in accordance with 40 CFR 80.1501.

* * * * *

(f) The following examples of automotive fuel rating disclosures for some presently available alternative liquid automotive fuels are meant to serve as illustrations of compliance with this part, but do not limit the Rule's coverage to only the mentioned fuels:

(1) ''Methanol/Minimum __ % Methanol''
(2) ''__ % Ethanol/Use only in Flex-Fuel Vehicles/May harm other engines''
(3) ''M85/Minimum __ % Methanol''
(4) ''LPG/Minimum __ % Propane'' or ''LPG/Minimum __ % Propane and __ % Butane''
(5) ''LNG/Minimum __ % Methane''
(6) ''B20 Biodiesel Blend/contains biomass-based diesel or biodiesel in quantities between 5 percent and 20 percent''
(7) ''20% Biomass-Based Diesel Blend/ contains biomass-based diesel or biodiesel in quantities between 5 percent and 20 percent''
(8) ''B100 Biodiesel/contains 100 percent biodiesel''
(9) ''100% Biomass-Based Diesel/ contains 100 percent biomass-based diesel''

* * * * *

■ 6. Amend § 306.12 by re-designating existing paragraphs (a)(4) through (9) as paragraphs (a)(5) through (10), respectively; by adding new paragraph (a)(4); by removing the illustration of the ''E–100'' label in paragraph (f); and by adding a new illustration after the existing illustrations in paragraph (f), to read as follows:

**§ 306.12 Labels.**

* * * * *

(a) * * *

(4) *For ethanol blends.* (i) The label is 3 inches (7.62 cm) wide h 2 1/2 inches (6.35 cm) long. ''Helvetica Black'' or equivalent type is used throughout. The type in the band is centered both horizontally and vertically. The band at the top of the label contains one of the following:

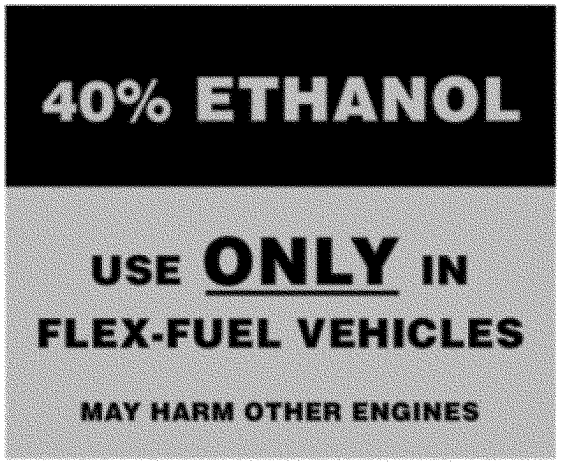
(A) The numerical value representing the volume percentage of ethanol in the fuel followed by the percentage sign and then by the term ''ETHANOL''; or

(B) The numerical value representing the volume percentage of ethanol in the fuel, rounded to the nearest factor of 10, followed by the percentage sign and then the term ''ETHANOL.''

(ii) The band should measure 1 inch (2.54 cm) deep. The percentage disclosure and the word ''ETHANOL'' are in 24 point font. The type below the black band is centered vertically and horizontally. The first line is the text: ''USE *ONLY* IN.'' It is in 16 point font, except for the word ''ONLY,'' which is in 26 point font. The word ''*ONLY*'' is underlined with a 2 point (or thick) underline. The second line is in 16 point font, at least 1/8 inch (.32 cm) below the first line, and is the text: ''FLEX-FUEL VEHICLES.'' The third line is in 10 point font, at least 1/8 inch (.32 cm) below the first line, and is the text ''MAY HARM OTHER ENGINES.''

* * * * *

(f) * * *




By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 2014–07423 Filed 4–3–14; 8:45 am]

**BILLING CODE 6750–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 1

**[Docket No. FDA–2011–D–0674]**

## Guidance for Industry: Food and Drug Administration Records Access Authority Under the Federal Food, Drug, and Cosmetic Act; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing the availability of a guidance for industry entitled ''FDA Records Access Authority Under Sections 414 and 704 of the Federal Food, Drug, and Cosmetic Act.'' The guidance provides updated information pertaining to FDA's authority to access and copy records relating to food. It is a revision of FDA's November 2005 guidance entitled ''Guidance for Industry and FDA Staff: Guidance for Records Access Authority Provided in Title III, Subtitle A, of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002; Final Guidance.''

**DATES:** Submit either electronic or written comments on FDA guidances at any time.

**ADDRESSES:** Submit written requests for single copies of the guidance to the Outreach and Information Center, Center for Food Safety and Applied Nutrition (HFS–317), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** William A. Correll, Jr., Center for Food Safety and Applied Nutrition (HFS–607), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–1611.

**SUPPLEMENTARY INFORMATION:**

### I. Background

We are announcing the availability of a guidance for industry entitled ''FDA Records Access Authority Under Sections 414 and 704 of the Federal Food, Drug, and Cosmetic Act.'' This guidance is being issued consistent with our good guidance practices regulation (21 CFR 10.115). The guidance represents our current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

In the **Federal Register** of February 23, 2012 (77 FR 10753), we made available a draft guidance for industry entitled ''FDA Records Access Authority Under Sections 414 and 704 of the Federal Food, Drug, and Cosmetic Act'' and gave interested parties an opportunity to submit comments by May 23, 2012, for us to consider before beginning work on the final version of the guidance. We received several comments on the draft guidance. Other than providing further information on where to find guidance on the procedural steps for FDA staff to follow when accessing records under sections 414 and 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350c and 21 U.S.C. 374, respectively), we are issuing the guidance with a few minor changes. The guidance announced in this notice finalizes the draft guidance dated February 2012.

### II. Paperwork Reduction Act of 1995

This guidance refers to information collection provisions found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). We

conclude that these information collection provisions are exempt from OMB review under 44 U.S.C. 3518(c)(1)(B)(ii) and 5 CFR 1320.4(a)(2) as collections of information obtained during the conduct of a civil action to which the United States or any official or Agency thereof is a party, or during the conduct of an administrative action, investigation, or audit involving an Agency against specific individuals or entities. The regulations in 5 CFR 1320.3(c) provide that the exception in 5 CFR 1320.4(a)(2) applies during the entire course of the investigation, audit or action, but only after a case file or equivalent is opened with respect to a particular party. Such a case file would be opened as part of the request to access records.

### III. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

### IV. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/FoodGuidances* or *http://www.regulations.gov.* Use the FDA Web site listed in the previous sentence to find the most current version of the guidance.

Dated: April 1, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–07551 Filed 4–3–14; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Part 1

**[Docket No. FDA–2013–N–1421]**

## Guidance for Industry on What You Need To Know About Establishment, Maintenance, and Availability of Records—Small Entity Compliance Guide; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notification.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''What You Need To Know About Establishment, Maintenance, and Availability of Records—Small Entity Compliance Guide'' (SECG), which updates an earlier guidance of the same title. Previously, this guidance restated the legal requirements of FDA's maintenance and establishment of records regulation and served as that regulation's SECG. Because the FDA Food Safety Modernization Act (FSMA) amended FDA's maintenance and establishment of records regulation, FDA issued an interim final rule (IFR) amending certain regulations to be consistent with the changes. Accordingly, FDA is revising this guidance to help any entity comply with FDA's maintenance and establishment of records requirements, including the amendments to these requirements made by the IFR as finalized. This guidance continues to serve as FDA's SECG.

**DATES:** Submit either electronic or written comments on FDA guidances at any time.

**ADDRESSES:** Submit written requests for single copies of this guidance to the Outreach and Information Center, Center for Food Safety and Applied Nutrition, Food and Drug Administration (HFS–009), 5100 Paint Branch Pkwy., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** William A. Correll, Jr., Office of Compliance, Center for Food Safety and Applied Nutrition (HFS–009), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–1611.

**SUPPLEMENTARY INFORMATION:**

### I. Background

We are announcing the availability of a guidance for industry entitled ''What You Need To Know About Establishment, Maintenance, and Availability of Records—Small Entity Compliance Guide (SECG).'' This guidance is being issued consistent with our good guidance practices regulation (21 CFR 10.115(c)(2)). The guidance represents our current thinking on the establishment, maintenance, and availability of records. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

FSMA (Pub. L. 111–353), among other things, amended FDA's records access under section 414(a) of the Federal Food, Drug, and Cosmetic Act (FD&C Act). In the **Federal Register** of February 23, 2012 (77 FR 10658), FDA issued an IFR that amended certain requirements on the availability of records in the regulation on the establishment and maintenance of records in 21 CFR Part 1, Subpart J to be consistent with amendments to the FD&C Act made by FSMA. This interim final rule was effective March 1, 2012.

Previously, this guidance restated the legal requirements of FDA's establishment and maintenance of records regulation at 21 CFR part 1, Subpart J, implementing section 414 of the FD&C Act, as added by the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Pub. L. 107–188). This guidance also served as FDA's SECG for 21 CFR Part 1, Subpart J in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act (Pub. L. 104–121). Because section 101 of FSMA amended section 414(a) of the FD&C Act, FDA issued an IFR amending certain requirements on the availability of records in 21 CFR Part 1, Subpart J. Elsewhere in this issue of the **Federal Register,** we are issuing a final rule adopting the IFR without changes. The final rule is effective upon publication. Accordingly, FDA is updating this SECG to help any entity comply with the requirements in 21 CFR part 1, Subpart J, including the amendments to 21 CFR Part 1, Subpart J made by the IFR and adopted as final. This guidance continues to serve as FDA's SECG for 21 CFR part 1, Subpart J.

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires Agencies to determine whether a final rule will have a significant impact on small entities when an Agency issues a final rule ''after being required . . . to publish a general notice of proposed rulemaking.'' Although FDA is not required to perform a regulatory flexibility analysis because, in accordance with 5 U.S.C. 553(b)(3)(B) and 21 CFR 10.40(e)(1), the Agency found for good cause that use of prior notice and comment procedures were contrary to the public interest;

FDA has nonetheless examined the economic implications of the final rule in accordance with the Regulatory Flexibility Act and determined that the final rule will not have a significant economic impact on a substantial number of small entities. Similarly, because FDA is not required to perform a final regulatory flexibility analysis under 5 U.S.C 605(b) for the final rule, FDA is not required to issue an SECG to comply with section 212 of the Small Business Regulatory Enforcement Fairness Act (Pub. L. 104–121); nevertheless, FDA has updated this SECG to state in plain language the requirements of 21 CFR part 1, Subpart J, as amended by the final rule.

### II. Paperwork Reduction Act of 1995

This guidance refers to information collection provisions found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Except for the provision regarding access to records, the collections of information in 21 CFR part 1, Subpart J, have been approved under OMB control number 0910–0560. With regard to access to records, we conclude that these information collection provisions are exempt from OMB review under 44 U.S.C. 3518(c)(1)(B)(ii) and 5 CFR 1320.4(a)(2) as collections of information obtained during the conduct of a civil action to which the United States or any official or Agency thereof is a party, or during the conduct of an administrative action, investigation, or audit involving an Agency against specific individuals or entities. The regulations in 5 CFR 1320.3(c) provide that the exception in 5 CFR 1320.4(a)(2) applies during the entire course of the investigation, audit or action, but only after a case file or equivalent is opened with respect to a particular party. Such a case file would be opened as part of the request to access records.

### III. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://regulations.gov.*

### IV. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/RegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: April 1, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–07548 Filed 4–3–14; 8:45 am]

**BILLING CODE 4160–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R05–OAR–2013–0646; FRL–9908–71–Region 5]**

### Approval and Promulgation of Air Quality Implementation Plans; Michigan; PSD Rules for $PM_{2.5}$

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to Michigan's Prevention of Significant Deterioration Program rules and definitions, including revisions to Parts 1 and 18 of Michigan's Air Pollution Control Rules into Michigan's State Implementation Plan (SIP). The revised rules address the Federal requirements for significant emission levels, and definitions for fine particulate matter. The Michigan Department of Environmental Quality submitted these revisions to EPA on August 9, 2013, and September 19, 2013.

**DATES:** Comments must be received on or before May 5, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2013–0646, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: damico.genevieve@epa.gov.*
3. *Fax:* (312) 886–0968.
4. *Mail:* Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

**FOR FURTHER INFORMATION CONTACT:** Constantine Blathras, Environmental Engineer, Air Permits Sections, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–0671, *Blathras.constantine@epa.gov.*

**SUPPLEMENTARY INFORMATION:** In the Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, we will withdraw the direct final rule and will address all public comments in a subsequent final rule based on this proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule which may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: March 17, 2014.

**Susan Hedman,**

*Regional Administrator, Region 5.*

[FR Doc. 2014–06827 Filed 4–3–14; 8:45 am]

**BILLING CODE 6560–50–P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**[Docket No. FWS–R5–ES–2013–0097; 4500030114]**

**RIN 1018–AY17**

## Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for the Rufa Red Knot (*Calidris canutus rufa*)

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; reopening of comment period; public hearings announcement.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period on our September 30, 2013, proposal to list the rufa red knot (*Calidris canutus rufa*) as a threatened species under the Endangered Species Act of 1973, as amended (Act). In accordance with section 4(b)(5) of the Act, during the reopened public comment period we will hold two public hearings, one in North Carolina and one in Texas, with public informational sessions immediately preceding the public hearings. This comment period will allow all interested parties an opportunity to attend the public hearings and provide testimony and additional comments on the proposed rufa red knot listing. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of the final rule.

**DATES:** For the proposed rule published September 30, 2013 (78 FR 60024), we will consider comments received or postmarked on or before May 19, 2014. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date.

*Public Informational Sessions and Public Hearings:* We will hold two public informational sessions and two public hearings on this proposed rule on the following dates and times; see **ADDRESSES** for locations:

- Morehead City, NC: Public informational session from 5:00 p.m. to 6:30 p.m., followed by a public hearing from 7:00 p.m. to 9:00 p.m., May 6, 2014.
- Corpus Christi, TX: Public informational session from 5:00 p.m. to 6:00 p.m., followed by a public hearing from 6:30 p.m. to 7:30 p.m., May 6, 2014.

Persons wishing to present oral comments on the proposed rule at the public hearing may register beginning at the start of the informational session.

**ADDRESSES:** *Document availability:* You may obtain copies of the September 30, 2013, proposed rule and supporting material on the Internet at *http://www.regulations.gov* at Docket Number FWS–R5–ES–2013–0097. Documents may also be obtained by mail from the New Jersey Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

*Written comments:* You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R5–ES–2013–0097, which is the docket number for the proposed rulemaking. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R5–ES–2013–0097; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more details).

*Public Informational Sessions and Public Hearings:* The informational sessions and public hearings will take place at:

- North Carolina—Crystal Coast Civic Center, 3505 Arendall Street, Morehead City, NC 28557.
- Texas—Harte Research Institute, Conference Room 127, 6300 Ocean Drive, Corpus Christi, TX 78412.

**FOR FURTHER INFORMATION CONTACT:** Eric Schrading, Field Supervisor, U.S. Fish and Wildlife Service, New Jersey Field Office, 927 North Main Street, Building D, Pleasantville, New Jersey 08232, by telephone 609–383–3938 or by facsimile 609–646–0352. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

### Public Comments

We will accept written comments and information during this reopened comment period on our proposal to list the rufa red knot as a threatened species that was published in the **Federal Register** on September 30, 2013 (78 FR 60024). We will consider information we receive from all interested parties. We intend that any final action resulting from this proposal will be based on the best scientific and commercial data available and be as accurate and as effective as possible.

If you submitted comments or information on the proposed rule (78 FR 60024) during the initial comment period from September 30, 2013, to November 29, 2013, please do not resubmit them. We have incorporated them into the public record as part of the previous comment period, and we will fully consider them in the preparation of our final determination.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule, are available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R5–ES–2013–0097, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, New Jersey Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

### Background

In our September 30, 2013, proposed rule (78 FR 60024), we proposed to list the rufa red knot as threatened due to loss of both breeding and nonbreeding habitat; potential for disruption of natural predator cycles on the breeding grounds; reduced prey availability throughout the nonbreeding range; and increasing frequency and severity of asynchronies (''mismatches'') in the timing of the birds' annual migratory cycle relative to favorable food and weather conditions.

For more information on previous Federal actions concerning the rufa red knot, or information regarding its biology, status, distribution, and habitat, refer to the proposed rule published in the **Federal Register** on September 30, 2013 (78 FR 60024) and its four supplemental documents, all of which are available online at *http://www.regulations.gov* at Docket No.

FWS–R5–ES–2013–0097 or by mail from the New Jersey Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

### Authors

The primary authors of this notice are the staff members in the Endangered Species Program, Northeast Regional Office, U.S. Fish and Wildlife Service.

### Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: March 19, 2014.

**Stephen Guertin,**

*Acting Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2014–07411 Filed 4–3–14; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 635

**[Docket No. 140115049–4273–01]**

**RIN 0648–XD092**

## Atlantic Highly Migratory Species; 2014 Atlantic Bluefin Tuna Quota Specifications

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments; notice of public hearing.

**SUMMARY:** NMFS proposes 2014 quota specifications for the Atlantic bluefin tuna (BFT) fisheries and seeks comments from the public on the allocation of available underharvest among the fishing categories under certain circumstances. This action is necessary to implement binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Written comments must be received on or before May 5, 2014. NMFS will host an operator-assisted public hearing conference call and webinar on April 16, 2014, from 2 to 4 p.m. EDT, providing an opportunity for individuals from all geographic areas to participate. See **SUPPLEMENTARY INFORMATION** for further details.

**ADDRESSES:** You may submit comments on this document, identified by ''NOAA–NMFS–2014–0008,'' by either of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0008*, click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Sarah McLaughlin, Highly Migratory Species (HMS) Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 55 Great Republic Drive, Gloucester, MA 01930.
- *Instructions:* Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and generally will be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

The public hearing conference call information is phone number 1–800–619–7481; participant passcode 5246202. Participants are strongly encouraged to log/dial in 15 minutes prior to the meeting. NMFS will show a brief presentation via webinar followed by public comment. To join the webinar, go to: *https://noaa-meets.webex.com/noaa-meets/j.php?MTID=m1c122efdcf020f0807ff335b43858362*, enter your name and email address, and click the ''JOIN'' button. Participants that have not used WebEx before will be prompted to download and run a plug-in program that will enable them to view the webinar.

Supporting documents such as the Environmental Assessments and Fishery Management Plans described below may be downloaded from the HMS Web site at *www.nmfs.noaa.gov/sfa/hms/*. These documents also are available by sending your request to Sarah McLaughlin at the mailing address specified above.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin or Brad McHale, 978–281–9260.

**SUPPLEMENTARY INFORMATION:** Atlantic bluefin tuna, bigeye tuna, albacore tuna, yellowfin tuna, and skipjack tuna (hereafter referred to as ''Atlantic tunas'') are managed under the dual authority of the Magnuson-Stevens Act and ATCA. As an active member of ICCAT, the United States implements binding ICCAT recommendations. ATCA authorizes the Secretary of Commerce (Secretary) to promulgate regulations, as may be necessary and appropriate to carry out ICCAT recommendations. The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NMFS.

### Background

On May 28, 1999, NMFS published in the **Federal Register** (64 FR 29090) final regulations, effective July 1, 1999, implementing the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (1999 FMP). The 1999 FMP included a framework process to promulgate annual specifications for the BFT fishery, in accordance with ATCA and the Magnuson-Stevens Act, and to implement the annual recommendations of ICCAT. Since 1982, ICCAT has recommended a Total Allowable Catch (TAC) of western Atlantic BFT, and since 1991 ICCAT has recommended specific limits (quotas) for the United States and other Contracting Parties with BFT fisheries.

On October 2, 2006, NMFS published a final rule in the **Federal Register** (71 FR 58058), effective November 1, 2006, implementing the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP), which consolidated management of all Atlantic HMS (i.e., sharks, swordfish, tunas, and billfish) into one comprehensive FMP. The implementing regulations for Atlantic HMS are at 50 CFR part 635. Among other things, the 2006 Consolidated HMS FMP maintained an allocation scheme, established in the 1999 FMP, for dividing the baseline annual U.S. BFT quota among several domestic quota categories based on gear type (i.e., Harpoon, Purse Seine, Angling, General, Longline, and Trap categories).

The baseline quota has remained unchanged from 2013, and the 2014 BFT quota specifications are necessary to adjust the annual U.S. baseline BFT quota to account for any underharvest or overharvest of the adjusted 2013 U.S. BFT quota. Preliminary information

indicates an underharvest of the 2013 adjusted BFT quota. Final 2013 landings and the preliminary 2013 pelagic longline dead discard estimate will be available in late spring 2014.

In May 2011, NMFS prepared an Environmental Assessment (EA)/ Regulatory Impact Review and Final Regulatory Flexibility Analysis for a final rule that: (1) Implemented and allocated the U.S. BFT quota for 2011 and for 2012, (2) adjusted the 2011 U.S. quota and subquotas to account for unharvested 2010 quota allowed to be carried forward to 2011 and to account for a portion of the estimated 2011 dead discards up front, and (3) implemented several other BFT management measures (76 FR 39019, July 5, 2011). Although it is not necessary to prepare an EA for quota specifications alone (in accordance with the approach described in the 2006 Consolidated HMS FMP), NMFS prepared a Supplemental EA for the 2013 BFT Quota Specifications (78 FR 36685, June 19, 2013) to present updated information regarding the affected environment, including information from a 2012 ICCAT stock assessment for BFT, among other things. ICCAT conducted a stock assessment update in 2013, although the results were not substantively different than those of the 2010 and 2012 assessments, which were analyzed in the May 2011 EA and June 2013 Supplemental EA.

NMFS is developing the 2014 specifications in accordance with the annual framework procedures set forth in the Environmental Impact Statement/Regulatory Impact Review (RIR)/Final Regulatory Flexibility Analysis (FRFA) prepared for the 2006 Consolidated HMS FMP. These specifications are supported by the EA/ RIR/FRFA for the Atlantic Bluefin Tuna Quotas and Atlantic Tuna Fisheries Management Measures (May 2011), and the 2013 Supplemental EA, as the ICCAT-recommended baseline quota has not changed from the 2011 level and there was no new information presented in 2013 that indicates changes in BFT stock status with respect to 2011 or changes in the effects of harvesting that quota on the environment.

*2010 ICCAT Recommendation and 2011 Implementing Rule*

At its 2010 annual meeting, ICCAT recommended a Total Allowable Catch (TAC) of 1,750 mt annually for 2011 and for 2012, inclusive of dead discards (ICCAT Recommendation 10–03—Supplemental Recommendation by ICCAT concerning the Western Atlantic BFT Rebuilding Program). This amount of catch was expected to allow for continued stock growth under low and high stock recruitment scenarios developed by ICCAT's scientific body at the 2010 BFT stock assessment. The U.S. share of the TAC for 2011 and 2012, adjusted for two specific bycatch allocations, was 54.02 percent, which resulted in a baseline quota of 923.7 mt. The total annual U.S. quota, including an additional 25 mt to account for bycatch related to pelagic longline fisheries in the Northeast Distant gear restricted area (NED), was 948.7 mt. ICCAT limits the amount of underharvest that may be carried forward from one year to the next to no more than 10 percent of a country's quota.

Through the 2011 final rule implementing the BFT quotas and Atlantic tuna fisheries management measures (76 FR 39019, July 5, 2011), NMFS implemented the 923.7-mt baseline quota consistent with ICCAT Recommendation 10–03 and set the domestic BFT fishing category subquotas per the allocation percentages established in the 2006 Consolidated HMS FMP and implementing regulations (71 FR 58058, October 2, 2006). The baseline quota and category subquotas are codified and remain effective until changed (for instance, if any new ICCAT BFT TAC recommendation is adopted).

*2012 and 2013 ICCAT Recommendations*

In both its 2012 recommendation (Recommendation 12–02—Supplemental Recommendation by ICCAT concerning the Western Atlantic BFT Rebuilding Program) and its 2013 recommendation (Recommendation 13–09—Recommendation by ICCAT Amending the Supplemental Recommendation by ICCAT concerning the Western Atlantic BFT Rebuilding Program), ICCAT recommended a one-year rollover of the 1,750-mt TAC. This amount is expected to allow for continued stock growth under both the low and high stock recruitment scenarios, considering the results of the 2013 ICCAT BFT stock assessment update. The annual U.S. baseline quota for 2014 continues to be 923.7 mt, and the annual total U.S. quota, including 25 mt to account for bycatch related to pelagic longline fisheries in the NED, continues to be 948.7 mt.

Although the baseline quota is unchanged this year because the 2013 ICCAT recommendation included the same TAC as the prior recommendation, NMFS is proposing underharvest adjustments as necessary for the 2014 fishing year through quota specifications, consistent with the 2006 Consolidated HMS FMP. Until the final specifications for 2014 are effective, the existing BFT base quotas continue to apply as codified. (See Table 1, second column.) As mentioned above, ICCAT limits the amount of underharvest that may be carried forward from one year to the next to no more than 10 percent of a country's quota. Applied to the 2013 catch figures, this provision limits the amount of U.S. underharvest that may be carried forward this year to 94.9 mt (10 percent of the 948.7-mt total U.S. quota).

Recommendation 13–09 also calls on the United States, Canada, and Japan to prepare research plans to develop fishery-independent indices of abundance for BFT and share them by April 30, 2014, for scientific review and comments. ICCAT scientists from the western BFT Contracting Parties will exchange views on the plans prior to the second meeting of the Working Group of Fisheries Managers and Scientists in Support of the Western Atlantic Bluefin Tuna Stock Assessment (''Working Group''), planned for summer 2014, for their earliest implementation. NMFS does not currently have information about the amount of U.S. quota that may be needed for related research activity in 2014, but would likely account for any such landings within the Reserve category. NMFS will provide further details, as appropriate, when available.

*Accounting for Dead Discards*

All ICCAT parties, including the United States, must report BFT landings data and BFT dead discard estimates to ICCAT annually. Currently, the best available annual estimate of U.S. dead discards that could be expected in 2014 is based on the 2012 estimate of 205.8 mt for the pelagic longline fishery and the observed 2013 dead discards of 13.7 mt for the purse seine fishery, totaling 219.5 mt. The purse seine observer data were gathered pursuant to ATCA to meet the requirements of an ICCAT recommendation. Using this amount as a proxy for estimated 2014 dead discards for the proposed action is appropriate because it is the best available and most complete information that NMFS currently has regarding dead discards and is consistent with the established protocol for dead discard accounting in the regulations. When the 2013 BFT pelagic longline dead discard estimate becomes available (late spring 2014), NMFS will use that estimate along with other available information about discards, including observed discards, in the final specifications and will report it to ICCAT along with total 2013 BFT landings.

Data regarding U.S. BFT dead discards are available only for the pelagic longline and purse seine fisheries for 2013. Estimates are not available for other gear types and fishing sectors that are not observed at sufficient levels for category-wide estimation and direct data are not available for trips that are not observed or for fisheries that do not report via a logbook. However, bycatch and bycatch mortality of BFT by vessels using handgear are considered to be relatively low because the gear is actively tended and fish can be released alive.

*2011 Through 2013 Quota Specifications*

In the annual specifications for 2011 through 2013, NMFS took the proactive measure of accounting for half of the dead discard estimate ''up front'' (i.e., at the beginning of the fishing year). For those years, dead discard information was available only from the pelagic longline fishery. Thus, NMFS deducted that portion of the dead discard estimate directly from the Longline category quota. In the 2011 specifications, NMFS applied half of the 2010 underharvest that was allowed to be carried forward to the Longline category and maintained the other half in the Reserve category. This was intended to provide maximum flexibility in accounting for 2011 landings and dead discards.

In 2012 and 2013, NMFS proposed the same method of distributing the underharvest that was allowed to be carried forward to the following year. However, in both 2012 and 2013, NMFS closed the pelagic longline fishery to BFT retention by the time that the specifications were finalized and, therefore, ultimately provided a larger portion to the Longline category in the final rule to account for actual BFT landings. Specifically, in 2012, NMFS closed the Longline category fishery to BFT retention in the southern area on May 29 (77 FR 31546, May 29, 2012), and in the northern area on June 30 (77 FR 38011, June 26, 2012), for the remainder of 2012, because landings had met the codified subquotas for those areas. Given that the incidental Longline fishery for BFT was closed, NMFS accounted fully for those landings in the final rule by applying 76.2 of the available 94.9-mt underharvest to the Longline category (resulting in an adjusted Longline category subquota of 78.4 mt, not including the separate 25-mt allocation for the Northeast Distant gear restricted area) and maintaining the remaining underharvest (18.7 mt) in the Reserve category (77 FR 44161, July 27, 2012). Providing this amount to the Longline category allowed NMFS to adjust the Longline South and Longline North subquotas to the amounts actually taken in those areas at the time of the closure, and to provide greater transparency than year-end accounting would.

In 2013, NMFS closed the southern and northern areas effective June 25 and applied all of the 2012 underharvest that could be carried forward to 2013 (i.e., 90.9 mt) to the Longline category, resulting in an adjusted Longline category subquota of 46 mt (74.8 mt − 119.75 mt + 90.9 mt = 46 mt), not including the separate 25-mt allocation for the Northeast Distant gear restricted area (78 FR 36685, June 19, 2013). For the last 3 years, NMFS has maintained all of the directed fishing categories at their baseline quotas.

*2014 Quota Specifications*

The 2014 BFT quota specifications NMFS proposes here are necessary to adjust the current annual U.S. baseline BFT quota to account for underharvest of the adjusted 2013 U.S. BFT quota. Based on preliminary data available as of February 10, 2014, BFT landings in 2013 totaled approximately 518 mt. Adding the 219.5-mt estimate of dead discards results in a preliminary 2013 total catch of 737.5 mt, which is 306.1 mt less than the amount of quota (inclusive of dead discards) allowed under ICCAT Recommendation 12–02, which applied in 2013 (i.e., 948.7 mt plus 94.9 mt of 2012 underharvest carried forward to 2013, totaling 1,043.6 mt). ICCAT limits the amount of underharvest that may be carried forward from one year to the next to no more than 10 percent of a country's quota, which limits the amount of 2013 U.S. underharvest that may be carried forward to 2014 to 94.9 mt.

For 2014, NMFS proposes to account up front (i.e., at the beginning of the fishing year) for half of the expected dead discards for 2014, using the best estimate of dead discards, from the Longline and Purse Seine category subquotas, as applicable. NMFS proposes to apply the full amount of underharvest that is allowed to be carried forward to 2014 to the Longline category. In contemplating how to account for dead discards and allocate the underharvest that is allowed to be carried forward in these 2014 proposed specifications, NMFS has considered the operational issues facing the pelagic longline fishery as the fleet continues directed fishing operations for swordfish and other tunas. This includes the possibility that deducting half of the estimate of dead discards from the baseline Longline category subquota would result in little to no quota for that category for 2014 prior to application of any available underharvest. Another consideration is the possibility that NMFS may need to close the Longline category fishery to BFT retention based on codified quotas, as was the case in 2012 and 2013, prior to or concurrent with finalizing the quota specifications. In preparing the quota specifications for the last few years, NMFS has balanced the need of the pelagic longline fishery to continue fishing for swordfish and Atlantic tunas with the need of directed BFT fisheries participants to receive their base quota.

Specifically, NMFS would deduct half of the pelagic longline dead discard estimate of 205.8 mt (i.e., 102.9 mt) from the 2014 baseline Longline category subquota of 74.8 mt and apply the 94.9 mt allowed to be carried forward to 2014 to the Longline category, for an adjusted Longline subquota of 66.8 mt (i.e., 74.8 − 102.9 + 94.9 = 66.8 mt), not including the 25-mt allocation set aside by ICCAT for the NED. For the Purse Seine category, NMFS would deduct half of the category's dead discard estimate from the baseline Purse Seine category subquota of 171.8 mt for an adjusted quota of 164.9 mt (i.e., 171.8 mt − 6.9 mt = 164.9 mt). The adjusted Longline category subquota of 66.8 mt would be further subdivided in accordance with the 2006 Consolidated HMS FMP (i.e., allocation of no more than 60 percent to the south of 31° N. latitude) as follows: 26.7 mt to pelagic longline vessels landing BFT north of 31° N. latitude, and 40.1 mt to pelagic longline vessels landing BFT south of 31° N. latitude. NMFS would account for landings under the 25-mt NED allocation separately from other Longline category landings.

For the handgear categories, as well as the Trap category (in which BFT may be caught incidentally), NMFS is proposing the baseline BFT subquotas (i.e., the allocations that result from applying the scheme established in the 2006 Consolidated HMS FMP to the baseline U.S. BFT quota).

Thus, in accordance with ICCAT Recommendation 13–09, the 2006 Consolidated HMS FMP allocation scheme for the domestic categories, and regulations regarding annual adjustments at § 635.27(a)(10), NMFS proposes quota specifications for the 2014 fishing year as follows: General category—435.1 mt; Harpoon category—36 mt; Purse Seine category—164.9 mt; Angling category—182 mt; Longline category—66.8 mt; and Trap category—0.9 mt. The amount allocated to the Reserve category for inseason adjustments, scientific research collection, potential overharvest in any

category except the Purse Seine category, and potential quota transfers would be 23.1 mt. These allocations are shown in Table 1.

NMFS will make any necessary adjustments to the 2014 specifications in the final rule after considering updated 2013 landings and dead discard information, as well as public comment. It is important to note that NMFS and ICCAT have separate schedules and approaches for accounting for landings and dead discards. At the beginning of the year, NMFS accounts proactively for half of the best estimate of dead discards, whereas total 2014 U.S. landings and dead discards will be accounted for at the end of the year and reported to ICCAT in 2015. ICCAT usually assesses quota compliance at its annual meeting in November by comparing the prior year's landings and reported dead discards against the adjusted U.S. quota. At the 2014 ICCAT annual meeting, ICCAT will compare actual U.S. 2013 landings and dead discards against the total 2013 adjusted U.S. quota of 1,043.6 mt (i.e., the 948.7-mt base quota for 2013, plus a maximum of 94.9 mt allowed to be carried forward from 2012 to 2013, if available), to determine the United States' compliance with 2013 ICCAT recommendations.

*Relation to Other Rulemaking*

From 2007 through 2010, there were substantial underharvests of some of the commercial BFT subquotas. Consistent with the 2006 Consolidated HMS FMP and its implementing regulations, NMFS provided the Longline category a substantial portion of the prior year's U.S. underharvest that was allowed to be carried forward (limited to 50 percent of the total U.S. quota at that time) during the annual specifications process at the beginning of the fishing year. This provided quota sufficient for the pelagic longline fleet to operate for the entire fishing year while also accounting for dead discards ''up front,'' using the best available estimate of anticipated dead discards. NMFS was also able to increase the directed categories' quotas and the Reserve category quota using available underharvest. Starting in 2011, ICCAT reduced the amount of underharvest that could be carried forward to 10 percent of a country's total quota, which resulted in insufficient quota available to maintain this approach.

NMFS considers the specifications approaches taken in 2011 through 2013 and proposed here as a transition from the method used for 2007 through 2010, as NMFS continues to develop Amendment 7 to the 2006 Consolidated HMS FMP. Among other things, Amendment 7 would reallocate BFT quota among categories in a way to more accurately reflect annual fishery operations and needs while decreasing bycatch in the non-directed fisheries. This amendment will address related BFT fishery management issues consistent with the need to end overfishing and rebuild the stock, including revisiting quota allocations; reducing and accounting for dead discards; adding or modifying time/area closures or gear-restricted areas; and improving the reporting and monitoring of dead discards and landings in all categories. NMFS published the proposed rule for Amendment 7 on August 21, 2013 (78 FR 52032). Depending on the management measures implemented in the Amendment 7 final rule, the quota specifications process may be substantially different in upcoming years. The extended comment period for the proposed rule ended January 10, 2014. NMFS anticipates publishing a final rule to implement Amendment 7 in mid-2014, with implementation dates varying by topic.

In the meantime, management of the BFT fishery continues under the current Consolidated HMS FMP, implementing regulations, and ICCAT Recommendations. In November 2014, ICCAT will renegotiate the western Atlantic bluefin tuna recommendation for 2015.

TABLE 1—PROPOSED 2014 ATLANTIC BLUEFIN TUNA QUOTAS AND QUOTA SPECIFICATIONS

[In metric tons]

| Category (% share of baseline quota) | Baseline allocation (per current ICCAT recommendation and the 2006 consolidated HMS FMP allocations) | 2014 Quota specifications | | |
|---|---|---|---|---|
| | | Dead discard deduction | 2013 Underharvest to carry forward to 2014 (94.9 mt total) | Adjusted 2014 fishing year quota |
| Total (100) | [1] 923.7 | | | 908.8 |
| Angling (19.7) | 182.0<br>*SUBQUOTAS:*<br>School 94.9<br>Reserve 17.6<br>North 36.5<br>South 40.8<br>LS/SM 82.9<br>North 39.1<br>South 43.8<br>Trophy 4.2<br>North 1.4<br>South 2.8 | | | 182.0<br>*SUBQUOTAS:*<br>School 94.9<br>Reserve 17.6<br>North 36.5<br>South 40.8<br>LS/SM 82.9<br>North 39.1<br>South 43.8<br>Trophy 4.2<br>North 1.4<br>South 2.8 |
| General (47.1) | 435.1<br>*SUBQUOTAS:*<br>Jan 23.1<br>Jun-Aug 217.6<br>Sept 115.3<br>Oct-Nov 56.6<br>Dec 22.6 | | | 435.1<br>*SUBQUOTAS:*<br>Jan 23.1<br>Jun-Aug 217.6<br>Sept 115.3<br>Oct-Nov 56.6<br>Dec 22.6 |
| Harpoon (3.9) | 36.0 | | | 36.0 |

TABLE 1—PROPOSED 2014 ATLANTIC BLUEFIN TUNA QUOTAS AND QUOTA SPECIFICATIONS—Continued

[In metric tons]

| Category (% share of baseline quota) | Baseline allocation (per current ICCAT recommendation and the 2006 consolidated HMS FMP allocations) | 2014 Quota specifications | | |
|---|---|---|---|---|
| | | Dead discard deduction | 2013 Underharvest to carry forward to 2014 (94.9 mt total) | Adjusted 2014 fishing year quota |
| Purse Seine (18.6) | 171.8 | [2] −6.9 | | 164.9 |
| Longline (8.1) | 74.8<br>*SUBQUOTAS:*<br>North (-NED) 29.9<br>NED 25.0 *<br>South 44.9 | [3] −102.9 | +94.9 | 66.8<br>*SUBQUOTAS:*<br>North (-NED) 26.7<br>NED 25.0<br>South 40.1 |
| Trap (0.1) | 0.9 | | | 0.9 |
| Reserve (2.5) | 23.1 | | | 23.1 |

[1] 25-mt ICCAT set-aside to account for bycatch of BFT in pelagic longline fisheries in the NED. Not included in totals at top of table.
[2] (1/2 of 2013 observed purse seine dead discards of 13.7 mt as estimate for 2014).
[3] (1/2 of 2012 pelagic longline dead discard estimate of 205.8 mt).

*Request for Comments*

NMFS solicits comments on this proposed rule through May 5, 2014. See instructions in **ADDRESSES** section above. NMFS specifically invites public comment on the proposed allocation of the anticipated underharvest (currently estimated to be limited to the maximum of 94.9 mt), as well as possible allocation approaches should the amount that can be carried forward need to be reduced. If the final 2013 landings and dead discard information for 2013 result in a total of greater than 948.7 mt, but less than the adjusted 2013 U.S. BFT quota of 1,043.6 mt, then the amount of 2013 underharvest that the United States may carry forward to 2014 would need to be reduced from 94.9 mt accordingly. Given the amount of dead discards the United States has reported to ICCAT in the last few years (ranging from 122 to 206 mt), NMFS considers this potential situation to be unlikely, as the dead discard estimate would need to be approximately 430 mt. At this point, NMFS does not envision needing to adjust the baseline subquotas for the directed handgear fishing categories and Trap category.

If the complete 2013 landings and dead discard information exceed 1,043.6 mt, NMFS may need to take further action, consistent with the BFT quota adjustment regulations and ICCAT recommendations, and the United States may be subject to adjustment of the U.S. BFT quota. NMFS considers this potential situation to be very unlikely, as the dead discard estimate would need to be approximately 525 mt. To address the possibility of overharvest of the adjusted U.S. quota, NMFS requests public comment on potential regulatory options to consider for the final 2014 quota and subquotas. For example, the Reserve category quota could be reduced as necessary, or the overall 2014 BFT quota could be reduced, which would affect all category subquotas.

**Public Hearing Conference Call**

NMFS will hold a public hearing conference call and webinar on April 16, 2014, from 2 p.m. to 4 p.m. EDT, to allow for an additional opportunity for interested members of the public from all geographic areas to submit verbal comments on the proposed quota specifications.

The public is reminded that NMFS expects participants at public hearings and on conference calls to conduct themselves appropriately. At the beginning of the conference call, a representative of NMFS will explain the ground rules (all comments are to be directed to the agency on the proposed action; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; and attendees should not interrupt one another). The NMFS representative will attempt to structure the meeting so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and, if they do not, they will be asked to leave the meeting.

**Classification**

The NMFS Assistant Administrator has determined that the proposed rule is consistent with the 2006 Consolidated HMS FMP, the Magnuson-Stevens Act, ATCA, and other applicable law, subject to further consideration after public comment.

This proposed rule is exempt from the procedures of E.O. 12866 because this action contains no implementing regulations.

Pursuant to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* the Chief Council for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The reasoning for this certification is as follows:

These annual BFT quota specifications (effective January 1 through December 31, 2014) are necessary to implement ICCAT recommendations, as required by ATCA, and to achieve domestic management objectives under the Magnuson-Stevens Act. Under ATCA, the United States must promulgate regulations as necessary and appropriate to implement binding recommendations of ICCAT.

On July 5, 2011, NMFS published a final rule (76 FR 39019) that modified the U.S. baseline quota to 923.7 mt to implement ICCAT Recommendation 10–03 (Supplemental Recommendation by ICCAT concerning the Western Atlantic Bluefin Tuna Rebuilding Program) and set the category subquotas per the allocation percentages established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP, 71 FR 58058, October 2, 2006). At its 2013 annual meeting, ICCAT recommended a

1-year rollover of the annual Total Allowable Catch (TAC) of 1,750 mt that was set for 2011, 2012, and 2013 (ICCAT Recommendation 13–09).

Although the baseline quota is unchanged this year because the 2013 ICCAT recommendation included the same TAC as the prior recommendation, NMFS will make underharvest and overharvest adjustments as allowable for the 2014 fishing year through quota specifications, consistent with the 2006 Consolidated HMS FMP and the current ICCAT recommendation that carryover not exceed 10 percent of a country's baseline quota (94.9 mt for the United States). Initial estimates indicate that the actual underharvest of the 2013 U.S. quota exceeds 94.9 mt, although no more than that amount would be available to carry forward. The proposed quota specifications were developed in accordance with the framework process set forth in the Environmental Impact Statement/Regulatory Impact Review (RIR)/Final Regulatory Flexibility Analysis (FRFA) prepared for the 2006 Consolidated HMS FMP and is supported by the Environmental Analysis/RIR/FRFA for the Atlantic Bluefin Tuna Quotas and Atlantic Tuna Fisheries Management Measures (May 2011), and Supplemental EA (June 2013) (see **ADDRESSES**).

As summarized in the 2013 Stock Assessment and Fishery Evaluation Report for Atlantic Highly Migratory Species, there were approximately 8,029 commercial Atlantic tunas or Atlantic HMS permits in 2013, as follows: 3,783 in the Atlantic Tunas General category; 14 in the Atlantic Tunas Harpoon category; 5 in the Atlantic Tunas Purse Seine category; 252 in the Atlantic Tunas Longline category; 7 in the Atlantic Tunas Trap category; and 3,968 in the HMS Charter/Headboat category. This constitutes the best available information regarding the universe of permits and permit holders recently analyzed.

This proposed rule is expected to directly affect commercial and for-hire fishing vessels that possess an Atlantic Tunas permit or Atlantic HMS Charter/Headboat permit. In general, the HMS Charter/Headboat category permit holders can be regarded as small businesses, while HMS Angling category permit holders are typically obtained by individuals who are not considered small entities for purposes of the RFA. The SBA has established size criteria for all major industry sectors in the United States, including fish harvesters. Previously, a business involved in fish harvesting was classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $4.0 million (NAICS code 114111, finfish fishing) for all its affiliated operations worldwide. In addition, SBA has defined a small charter/party boat entity (NAICS code 713990, recreational industries) as one with average annual receipts of less than $7.0 million. On June 20, 2013, SBA issued a final rule revising the small business size standards for several industries effective July 22, 2013 (78 FR 37398, June 20, 2013). The rule increased the size standard for Finfish Fishing from $4.0 to 19.0 million, Shellfish Fishing from $4.0 to 5.0 million, and Other Marine Fishing from $4.0 to 7.0 million. Id. at 37400 (Table 1). NMFS has reviewed the analyses prepared for this action in light of the new size standards. Under the former, lower size standards, all entities subject to this action were considered small entities, thus they all would continue to be considered small under the new standards. The new size standards do not affect analyses prepared for this action.

The current ICCAT recommendation requires dead discards to be included within countries' allocations. Category-wide data regarding U.S. BFT dead discards are available only for the pelagic longline and purse seine fisheries for 2013. Estimates are not available from other gear types and fishing sectors that are not observed at sufficient levels for category-wide estimation and direct data are not available for trips that are not observed or for fisheries that do not report via a logbook. The United States is not required by ICCAT or current regulations to account for the total amount of dead discards until the end of the fishing season. However, in the annual specifications for 2011 through 2013, NMFS took the proactive measure of accounting for half of the dead discard estimate ''up front,'' (i.e., at the beginning of the fishing year) and deducting that portion directly from the Longline category quota.

The current ICCAT recommendation limits the amount of underharvest that may be carried forward from one year to the next to no more than 10 percent of a country's quota. This restriction limits the amount of underharvest that may be carried forward to 94.9 mt (10 percent of the 948.7-mt total U.S. quota). In the 2011 specifications, NMFS applied half of the 2010 underharvest that was allowed to be carried forward to the Longline category and maintained the other half in the Reserve category. This was intended to provide maximum flexibility in accounting for 2011 landings and dead discards. In 2012 and 2013, NMFS proposed the same method of distributing the underharvest that was allowed to be carried forward to the following year. However, in both 2012 and 2013, NMFS closed the pelagic longline fishery to BFT retention by the time the specifications were finalized and, therefore, ultimately provided a larger portion to the Longline category in the final rule to account for actual BFT landings (placing the remainder in the Reserve category in 2012). For the last 3 years, NMFS has maintained the directed fishing categories at their baseline quotas.

For the 2014 quota specifications, NMFS similarly proposes to deduct half of the dead discards up front from both the Longline category and Purse Seine category, to carry the 94.9 mt forward to 2014, and to apply that amount in the same manner as finalized in 2013, i.e., to the Longline category. This would provide the Longline category a reasonable amount of quota for 2014 and would reduce potential ''regulatory discards'' that may otherwise result if closure of the Longline category fishery to BFT retention is necessary mid-year. The directed handgear fishing categories and the Trap category (in which BFT may be caught incidentally) would continue to receive their baseline subquotas. NMFS will make any necessary adjustments to the 2014 specifications in the final rule after considering updated 2013 landings information and the dead discard estimate for 2013, which should be available in late spring 2014.

The most recent ex-vessel average price per pound information for each commercial quota category is used to estimate potential ex-vessel gross revenues under the proposed 2014 subquotas (i.e., 2013 prices for the General, Harpoon, and Longline/Trap, and Purse Seine categories). The 2014 subquotas could result in estimated gross revenues for each category, if finalized and fully utilized, as follows: General category: $6.9 million (435.1 mt * $7.19/lb); Harpoon category: $535,700 (36 mt * $6.75/lb); Purse Seine category: $2.3 million (164.9 mt * $6.20/lb); Trap category: $11,700 (0.9 mt * $5.92/lb); and Longline category: $872,000 (66.8 mt * $5.92/lb). Estimated potential 2014 revenues on a per vessel basis, considering the number of permit holders listed above and the proposed subquotas, could be $1,824 for the General category; $38,264 for the Harpoon category; $3,460 for the Longline category; $460,000 for the Purse Seine category; and $1,671 for the Trap category. Thus, all of the entities affected by this rule are considered to be

small entities for the purposes of the RFA.

This proposed rule would not change the U.S. Atlantic BFT baseline quota, amount of carryover, or implement any new management measures not previously considered. The baseline quota and category subquotas are codified and remain effective until changed (for instance, if any new ICCAT western Atlantic bluefin tuna TAC recommendation is adopted). Thus, the affected entities will not experience any negative, direct economic impacts as a result of this rule.

The annual specification process that this proposed rule follows, including application of underharvests and overharvests, is described in detail in Chapters 2 and 4 of the 2006 Consolidated HMS FMP. Because the economic impacts of carrying forward the allowable unharvested quota are expected to be generally positive, this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Accordingly, no initial regulatory flexibility analysis is required, and none has been prepared.

**Authority:** 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: April 1, 2014.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. 2014–07549 Filed 4–1–14; 4:15 pm]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 660

**[Docket No. 130405338–4201–01]**

**RIN 0648–BC84**

## Fisheries off West Coast States; Pacific Coast Groundfish Fishery Management Plan; Trawl Rationalization Program; Chafing Gear Modifications; Correction

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments; correction.

**SUMMARY:** On March 19, 2014, NMFS published a proposed rule in the **Federal Register** to modify chafing gear restrictions for midwater trawl in the Pacific Coast Groundfish Fishery. The identification number for submitting comments listed in the **ADDRESSES** heading section of the rule is being corrected.

**DATES:** This correction is effective April 4, 2014. Comments on this proposed rule must be received no later than 5 p.m., local time on April 18, 2014. During the comment period, NMFS is specifically seeking comments on the proposed method of attachment for chafing gear, including the benefits and effects relative to current minimum mesh size restrictions and prohibition on double walled codends.

**ADDRESSES:** You may submit comments on the proposed rule, identified by NOAA–NMFS–2014–0028, by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0028*, click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Fax:* 206–526–6736; Attn: Becky Renko.
- *Mail:* William W. Stelle, Jr., Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070; Attn: Becky Renko.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Becky Renko, 206–526–6110; (fax) 206–526–6736; *Becky.Renko@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Need for Correction

In the **Federal Register** of March 19, 2014, in FR Doc. 2014–06058, on page 15296, please make the following corrections: Under the **ADDRESSES** heading, in the first sentence and in the text following the first bullet point, please remove ''NOAA–NMFS–2012–0218'' and replace it with ''NOAA–NMFS–2014–0028.''

Dated: March 28, 2014.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. 2014–07468 Filed 4–3–14; 8:45 am]

**BILLING CODE 3510–22–P**

# Notices

Federal Register
Vol. 79, No. 65
Friday, April 4, 2014

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### Notice of Solicitation of Nominations for Members of the Foundation for Food and Agriculture Research

**AGENCY:** Research, Education, Economics, USDA.

**ACTION:** Solicitation of nominations for membership.

**SUMMARY:** In accordance with Sec. 7601 of Pub. L. 113–79, the United States Department of Agriculture announces solicitation for nominations to fill 15 vacancies on the Foundation for Food and Agricultural Research. Seven (7) representatives are to be selected from lists of candidates provided by industry, and eight (8) representatives are to be selected from a list of candidates provided by the National Academy of Sciences. The National Academy of Sciences will be soliciting nominations through a separate process. The Agricultural Act of 2014 can be found at: *http://www.gpo.gov/fdsys/pkg/BILLS-113hr2642enr/pdf/BILLS-113hr2642enr.pdf*.

**DATES:** Deadline for Foundation board member nominations is April 28, 2014 by 5:00 p.m. Eastern Time.

**ADDRESSES:** Congressional Affairs, Research, Education, and Economics, Room 214–W, Whitten Building, United States Department of Agriculture, 1400 Independence Ave. SW., Washington, DC 20250–0321, fax number 202–260–8786, email *FFAR@usda.gov*.

**FOR FURTHER INFORMATION CONTACT:** Ven Neralla; Director of Congressional Affairs; Research, Education, and Economics; United States. Department of Agriculture, 1400 Independence Ave. SW.; Room 214–W, Whitten Building; Washington, DC 20250; Telephone: 202–260–8208, email: *ven.neralla@usda.gov*.

**SUPPLEMENTARY INFORMATION:** Section 7601 of the Agricultural Act of 2014 (Pub. L. 113–79) created a new Foundation for Food and Agriculture Research:

(1) To advance the research mission of the Department by supporting agricultural research activities focused on addressing key problems of national and international significance including—(A) plant health, production, and plant products; (B) animal health, production, and products; (C) food safety, nutrition, and health; (D) renewable energy, natural resources, and the environment; (E) agricultural and food security; (F) agriculture systems and technology; and (G) agriculture economics and rural communities; and (2) to foster collaboration with agricultural researchers from the Federal Government, State (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) governments, institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C, 1001)), industry, and nonprofit organizations. In general, the Foundation shall: (A) Award grants to, or enter into contracts, memoranda of understanding, or cooperative agreements with, scientists and entities, which may include agricultural research agencies in the Department, university consortia, public-private partnerships, institutions of higher education, nonprofit organizations, and industry, to efficiently and effectively advance the goals and priorities of the Foundation; (B) in consultation with the Secretary—(i) identify existing and proposed Federal intramural and extramural research and development programs relating to the purposes of the Foundation described in subsection (c); and (ii) coordinate Foundation activities with those programs so as to minimize duplication of existing efforts and to avoid conflicts; (C) identify unmet and emerging agricultural research needs after reviewing the roadmap for agricultural research, education, and extension authorized by section 7504 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 7614a); (D) facilitate technology transfer and release of information and data gathered from the activities of the Foundation to the agricultural research community; (E) promote and encourage the development of the next generation of agricultural research scientists; and (F) carry out such other activities as the Board determines to be consistent with the purposes of the Foundation.

Nominations are being solicited from organizations, associations, societies, councils, federations, groups, and companies that represent a wide variety of food and agricultural interests throughout the country, and that can fulfill the requirement of industry provided lists of candidates. The nominees are not required to be in industry, but must be nominated by someone in industry.

#### Criteria for Board Membership

The Board of Directors will be composed of the following:

- 8 representatives selected from a list of candidates provided by the National Academy of Sciences.
- 7 representatives selected from lists of candidates provided by industry.

The Foundation's Board will be responsible for governing the organization and ensuring it succeeds in its mission. To that end the Board members will oversee the mission and operation of the Foundation, including: Approving programs and monitoring their effectiveness, coordinating Foundation activities with federal research programs, awarding grants, and ensuring financial solvency and raising resources.

The initial Board is to be appointed by the ex-officio board members designated in the statute. 3 The ex-officio members are: The Secretary of Agriculture, the Under Secretary of Agriculture for Research, Education, and Economics, the Administrator of the Agricultural Research Service, the Director of the National Institute of Food and Agriculture, and the Director of the National Science Foundation.

#### Process and Criteria for Nominations

The nominator should submit a name and contact information for each nominee. All nominees will be vetted before selection. Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical handicap, marital status, or sexual orientation.

Done at Washington, DC, this 31st day of March 2014.

**Catherine E. Woteki,**

*Under Secretary for Research, Education and Economics.*

[FR Doc. 2014–07574 Filed 4–3–14; 8:45 am]

**BILLING CODE 3410–22–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Research Service

### Notice of Intent To Grant Exclusive License

**AGENCY:** Agricultural Research Service, USDA.

**ACTION:** Notice of intent.

**SUMMARY:** Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Eureka Genomics Corporation of Hercules, California, an exclusive license to the Federal Government's rights in U.S. Patent Application Serial No. 13/824,348, ''SCALABLE CHARACTERIZATION OF NUCLEIC ACIDS BY PARALLEL SEQUENCING'', filed on March 15, 2013.

**DATES:** Comments must be received on or before May 5, 2014.

**ADDRESSES:** Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

**FOR FURTHER INFORMATION CONTACT:** June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

**SUPPLEMENTARY INFORMATION:** The patent rights in this invention are co-owned by the United States of America, as represented by the Secretary of Agriculture, and Eureka Genomics Corporation of Hercules, California. The prospective exclusive license will grant to the co-owner, Eureka Genomics Corporation, an exclusive license to the Federal Government's patent rights. It is in the public interest to so license this invention as Eureka Genomics Corporation of Hercules, California has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

**Mojdeh Bahar,**

*Assistant Administrator.*

[FR Doc. 2014–07553 Filed 4–3–14; 8:45 am]

**BILLING CODE 3410–03–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Idaho Panhandle National Forests and Lolo National Forest; Shoshone County, ID and Mineral County, MT; Lookout Pass Ski Area Expansion Third-Party Environmental Impact Statement

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The Idaho Panhandle National Forests (IPNFs) and Lolo National Forest (LNF) are preparing an environmental impact statement (EIS) to consider and disclose the anticipated environmental effects of a proposal from Lookout Pass Ski and Recreation Area (Lookout Pass) to expand its special use permit to upgrade and develop new lifts, ski terrain, parking, access roads, and guest service facilities. The proposed project is located approximately 12 miles east of Wallace, Idaho, on National Forest System (NFS) lands within Shoshone County, Idaho, and Mineral County, Montana.

**DATES:** Comments concerning the scope of the analysis must be received by May 5, 2014. The Draft EIS is expected to be available for public review in winter 2015 and the Final EIS is expected in summer 2016.

**ADDRESSES:** Send written comments to SWCA Environmental Consultants, 1220 SW Morrison St., Suite 700, Portland, OR 97205. Comments may also be sent via email to *comments-northern-idpanhandle-coeur-dalene@fs.fed.us,* via facsimile to (503) 224–1851, online through the project Web site at *http://www.fs.fed.us/nepa/fs-usda-pop.php?project=43757,* or in-person at the Coeur d'Alene River Ranger District, Fernan or Smelterville offices, or the Superior Ranger District. Include ''Lookout Pass Ski Area Expansion Third-Party EIS'' in the subject line. Comments submitted electronically must be searchable or readable with optical character recognition software.

**FOR FURTHER INFORMATION CONTACT:** Additional information related to the proposed project can be obtained from the project Web site, *http://www.fs.fed.us/nepa/fs-usda-pop.php?project=43757,* by contacting the Lookout Pass Ski Area Expansion Third-Party EIS NEPA Contractor, Sue Wilmot, at (503) 224–0333 ext. 6324, or by emailing: *swilmot@swca.com.* Further information will also be made available at three public open houses:

- April 22, 2014, 5–7 p.m. at the Black Diamond Ranch (120 Borgia Haugan Frontage Rd., De Borgia, MT).
- April 23, 2014, 5–7 p.m. at the Wallace Inn (100 Front Street, Wallace, Idaho).
- April 24, 2014, 5–7 p.m. at the Coeur d'Alene Forest Supervisors Office (3815 Schreiber Way, Coeur d'Alene, Idaho).

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:**

*Purpose and Need for Action:* The purpose of the proposed Lookout Ski Area Expansion is to provide a high-quality downhill skiing recreational opportunity on the IPNFs and LNF. Lookout Pass ski terrain is insufficient to meet market demands, resulting in diminished recreational experiences and reduced economic viability for the ski area. In the Lookout Pass Ski and Recreation Area Master Development Plan, Lookout Pass specifically identified three social, economic, or physical factors that necessitate the development of additional terrain in order to ensure continued, publicly acceptable ski operations. These factors are (1) diminished skier experiences associated with overcrowding, increased skier congestion, decreased safe operating conditions, and inefficient skier transport during high-visitation days as well as inefficient skier transport and trail use on low-visitation days; (2) current ski terrain distribution that does not match market demand; and (3) concerns over the economic viability of Lookout Pass and its ongoing contribution to the local economy. Expansion of Lookout Pass would address these needs by providing more skiable terrain and more efficient lift systems to enable the ski area to remain economically viable while ensuring a high-quality recreation experience for a wider range and number of skiers. This action would move the ski area toward a desired condition outlined in the Idaho Panhandle National Forests Land Management Plan and the Lolo National Forest Plan and respond to the Forest Plans' goals and objectives.

*Proposed Action:* The IPNFs and LNF propose to expand the existing Lookout

Pass boundary through a new special use permit to encompass an additional 650 acres of Forest Service lands. Administration of these lands is split between the IPNFs in Shoshone County, Idaho, and the LNF in Mineral County, Montana. Approximately 55% of the additional acreage would fall within the IPNFs and 45% would fall within the LNF.

*Ski Trails and Terrain:* The Proposed Action would construct 15 new ski trails, providing a total of 85 new acres of traditional ski terrain. New connector ski trails would add about 24 acres of novice terrain and provide access to proposed and existing lifts and terrain. The remaining 61 acres would provide new low intermediate to advanced intermediate terrain and reduce crowding and skier conflicts on high-visitation days.

Construction of traditional terrain ski trails would require the removal of all trees within the ski trail corridor. Some partial removal would also occur along ski trail edges and in leave islands. Timber harvest during ski trail construction would be conducted using ground-based yarding systems and slash, including limbs and large woody debris, would be either removed or burned.

In addition to traditional ski terrain, creation of about 9 acres of gladed terrain is proposed. Beetle-killed and infested trees would be removed, and wood waste would be chipped and used for erosion control, cut for firewood, or piled and burned on site.

*Lifts:* Lift 1 would be upgraded from a two-passenger lift to a four-passenger lift to increase skier capacity. A new drive terminal, a return terminal, and 14 line towers would be installed to support this upgrade. Existing access roads would be used for construction and maintenance of upgraded Lift 1; no new road construction would be required.

Two new lifts—Lifts 5 and 6—would be constructed in the proposed expansion area to provide skier access to new traditional and gladed terrain. Lift construction would occur within tree-cleared corridors. Lift 5 would be approximately 5,200 feet long with a vertical rise of approximately 1,300 feet. It would serve six trails and provide access to the Lift 6 ski trails. Lift 5 would be installed as a fixed-grip lift for two, three, or four passengers. Lift 6 would serve six trails and would provide access back to the Lift 5 trails. The lift would be approximately 2,800 feet long with a vertical rise of approximately 800 feet, and would be installed as a fixed-grip, two-passenger lift.

Lift terminals and towers would be transported to each site using logging equipment (forwarders, tractors, or skidders).

*Powerline:* Proposed Lifts 5 and 6 would be powered via an underground power cable extending from the bottom of existing Lift 1 to the bottom drive terminals of proposed Lifts 5 and 6. The approximately 12,000 feet of buried cable would be installed within new and existing ski trails and along proposed temporary roads.

The powerline would cross one unnamed spring-fed creek near the base of Lift 6. The cable would be either directionally drilled under the creek or installed using an open-cut method. The creek would be restored to pre-construction or better condition, and erosion and sediment control measures would be installed to reduce streambank and upland erosion and sediment transport into the waterbody.

*Parking:* The Proposed Action would add 6.6 acres of parking to accommodate an additional 130 vehicles and buses. Approximately 50 parking spaces and a turn-around area would be added north of the existing overflow parking area. Ingress and egress for users of the Northern Pacific Railroad Trail would be maintained. An additional 80 parking spaces would be created in two locations south of the existing paved parking area; one on the west side of the access road and another on the west side of the existing railroad grade. Ingress and egress for other users would be maintained.

No snowmobile off-loading or trailer parking would be designated or permitted within the special use area boundary.

*Maintenance Facilities:* A new maintenance shop and adjacent concrete fuel tank pad would be constructed just south of the existing fueling pad station to support ski operations. A 0.03-mile new, permanent gravel road would be constructed to provide access between the maintenance facilities and the lodge.

*Guest Service Facilities (ski patrol service building and restroom):* A ski patrol service building and warming hut would be constructed at the top of proposed Lifts 5 and 6. The log structure would be similar to the existing ski patrol service building and would be powered by propane or fuel cell technology to provide heat and light.

The Proposed Action would also include construction of a two-stall Romtec restroom structure in the vicinity of the proposed Lift 5 bottom terminal, just off existing NFS Road 18591 along a proposed new permanent road.

*Roads and Access:* Approximately 4.3 miles of existing and new roads would be constructed or reconstructed to Forest Service standards by the permittee to facilitate timber harvest and Lookout Pass maintenance and operations. These roads would be closed to public travel during project implementation and after completion.

Entry to the project area during the timber harvest and construction phases would occur via existing NFS Roads 9132, 4208, 18591, and 3026A, requiring approximately 0.5 mile of reconstruction on Road 18591.

Approximately 2.2 miles of new, permanent roads would also be constructed to provide long-term, annual use by Lookout Pass for maintenance and operations. Planned new permanent roads would be constructed to Forest Service standards. Motorized vehicle access would be permitted for Forest Service administrative use and by Lookout Pass for maintenance and operations, but all other motorized access would be prohibited.

Approximately 1.6 miles of temporary roads would be constructed, primarily on existing ski trails, jeep tracks, or other primitive trails and unmanaged Forest Service roads to minimize vegetation and soil disturbance. Temporary roads would be constructed for logging of a single entry only and would be decommissioned following this activity.

Low-impact temporary roads would also be needed to access the lift tower locations. These would be made with a small trackhoe traversing cross-country and removed at the conclusion of construction activities.

Upon construction of the proposed new permanent road, Forest Service Undetermined Roads 37315 and 37315–1 would be decommissioned. These roads provide duplicate access to areas that would be accessed by the proposed new permanent road and represent a higher risk to area resources because they are not managed by the Forest Service or constructed to current Forest Service-specified road standards.

*Forest Plan Amendment:* The Proposed Action would include an amendment to the Lolo National Forest Plan. This amendment would change approximately 173 acres from Management Area (MA) 9 (concentrated public use), 13 acres from MA 13 (riparian areas), and 107 acres from MA 24 (timber production with high visual sensitivity) to MA 8 (ski areas).

For the IPNFs, the Proposed Action would change approximately 85 acres from MA 1 (timber production) and 89 acres from MA 9 (non-forest lands) to

MA 17 (developed recreation) under the current Idaho Panhandle National Forests Land Management Plan (referred to as the Forest Plan). However, if any of the action alternatives are selected as part of the record of decision for the IPNF's ongoing Forest Plan revision, all lands potentially affected by the Proposed Action would fall within MA 7 (primary recreation areas) and would not require a Forest Plan amendment.

*Responsible Official:* Mary Farnsworth, Forest Supervisor, Idaho Panhandle National Forests, 3815 Schreiber Way, Coeur d'Alene, Idaho 83815.

*Nature of Decision To Be Made:* Based on the analysis that will be documented in the forthcoming EIS, the responsible official will decide whether or not to amend the current special use permit to implement, in whole or in part, the Proposed Action or another alternative that may be developed by the Forest Service as a result of scoping.

*Scoping Process:* This notice of intent initiates the scoping process, which guides the development of the EIS. The Forest Service is soliciting comments from federal, state, and local agencies and other individuals or organizations that may be interested in or affected by implementation of the proposed project. Public questions and comments regarding this proposal are an integral part of this environmental analysis process. Input provided by interested and/or affected individuals, organizations, and governmental agencies will be used to identify resource issues that will be analyzed in the Draft EIS. The Forest Service will use the significant issues raised during the scoping process to formulate alternatives, prescribe mitigation measures and project design features, and analyze environmental effects.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the EIS. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's specific facts, concerns, or issues, and the supporting reasons.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this Proposed Action. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not allow the Forest Service to provide the respondent with subsequent environmental documents.

Dated: March 28, 2014.

**Lisa A. Timchak,**

*Acting Forest Supervisor.*

[FR Doc. 2014–07524 Filed 4–3–14; 8:45 am]

**BILLING CODE 3410–11–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Siuslaw Resource Advisory Committee Meetings

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meetings.

**SUMMARY:** The Siuslaw Resource Advisory Committee (RAC) will meet in Corvallis, Oregon. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meetings are open to the public. The purpose of the meetings is to recommend projects for Title II funding.

**DATES:** The meetings will be held from 9 a.m. to 5 p.m. on the following dates:

- May 8, 2014
- May 28, 2014
- June 6, 2014

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**ADDRESSES:** The meeting will be held at Siuslaw National Forest Headquarters, Conference Room 20 A, 3200 SW Jefferson Way, Corvallis, Oregon 97331.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Siuslaw National Forest Headquarters. Please call ahead to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Joni Quarnstrom, RAC Coordinator, by phone at 541–750–7075 or via email at *jquarnstrom@fs.fed.us*.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday. Please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or procedings by contacting the person listed above.

**SUPPLEMENTARY INFORMATION:** Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *www.fs.usda.gov/siuslaw/rac.* The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing at least 2 days before the meeting date to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Joni Quarnstrom, RAC Coordinator, Siuslaw National Forest Headquarters, 3200 SW Jefferson Way, Corvallis, Oregon 97331; or by email to *jquarnstrom@fs.fed.us* or via facsimile to 541–750–7234.

*Meeting Accommodations:* If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: March 26, 2014.

**Jeremiah C. Ingersoll,**

*Forest Supervisor.*

[FR Doc. 2014–07437 Filed 4–3–14; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Del Norte Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meetings.

**SUMMARY:** The Del Norte Resource Advisory Committee (RAC) will meet in Crescent City, California. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations

to the Forest Service concerning projects and funding consistent with the title II of the Act. The meeting is open to the public. The purpose of the meeting is provide updates regarding status of Secure Rural Schools Title II program and funding, discuss funding strategies and review and recommend potential projects eligible for funding.

**DATES:** The meetings will start at 6:00 p.m. on the following dates:

- May 1, 2014.
- May 6, 2014.
- May 13, 2014.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**ADDRESSES:** The meeting will be held at the Del Norte County Unified School District, Redwood Room, 301 West Washington Boulevard, Crescent City, California.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Six Rivers National Forest Office. Please call ahead to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Lynn Wright, RAC Coordinator, by phone at 707–441–3562 or via email at *hwright02@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday. Please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accomodation for access to the facility or procedings by contacting the person listed above.

**SUPPLEMENTARY INFORMATION:** Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *http://www.fs.usda.gov/srnf.* The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing to be scheduled on the agenda 5 days prior to the meeting. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Lynn Wright, RAC Coordinator, 1330 Bayshore Way, Eureka, California 95501; by email at *hwright02@fs.fed.us;* or via facsimile at 707–445–8677.

*Meeting Accommodations:* If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: March 28, 2014.

**Tyrone Kelley,**

*Forest Supervisor.*

[FR Doc. 2014–07525 Filed 4–3–14; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Humboldt County Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meetings.

**SUMMARY:** The Humboldt County Resource Advisory Committee (RAC) will meet in Eureka, California. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub.L 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the title II of the Act. The meeting is open to the public. The purpose of the meeting is provide updates regarding status of Secure Rural Schools Title II program and funding, discuss funding strategies and review and recommend potential projects eligible for funding.

**DATES:** The meetings will start at 5:30 p.m. and be held on the following dates:

- May 12, 2014
- May 13, 2014

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under *For Further Information Contact.*

**ADDRESSES:** The meeting will be held at Six Rivers National Forest Office, 1330 Bayshore Way, Eureka, California.

Written comments may be submitted as described under *Supplementary Information.* All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Six Rivers National Forest Office. Please call ahead to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Lynn Wright, RAC Coordinator, by phone at 707–441–3562 or via email at *hwright02@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday. Please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accomodation for access to the facility or procedings by contacting the person listed above.

**SUPPLEMENTARY INFORMATION:** Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *http://www.fs.usda.gov/srnf.* The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing to be scheduled on the agenda 5 days prior to the meeting. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Lynn Wright, RAC Coordinator, 1330 Bayshore Way, Eureka, California 95501; or by email at *hwright02@fs.fed.us;* or via facsimile at 707–445–8677.

*Meeting Accommodations:* If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: March 28, 2014.

**Tyrone Kelley,**

*Forest Supervisor.*

[FR Doc. 2014–07542 Filed 4–3–14; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

### Announcement of Grant Application Deadlines

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Notice of Funds Availability (NOFA).

**SUMMARY:** The Rural Utilities Service (RUS) is announcing a special Fiscal Year (FY) 2014 application window for a Colonias Needs Assessment to be completed through the Technical Assistance and Training Grant Program (TAT). In 2013, RUS partnered with EPA to launch a USDA/EPA Mexico Border Needs Assessment and Support Project. The five-phased project intends to identify small communities' gaps in water and wastewater infrastructure development and in technical capacity in the Mexico Border region. Once the gaps are identified, the project intends to support appropriate water and wastewater infrastructure projects that meet the specific needs of small communities. The ultimate goal would be to reduce health risks and increase economic development in Colonias regions. Phase 1 is completed and consisted of RUS/EPA research and collection of data related to socio-economic factors, public health and Federal and State investments in infrastructure in Colonias regions. Phase 2 of the project is to conduct a detailed assessment of water and wastewater infrastructure needs in select Colonias areas in four states, including California, New Mexico, Arizona and Texas. The areas of focus for the study are further defined in the application guide and are those where Phase I data showed highest health, environmental and economic challenges. Through this announcement RUS seeks applications to conduct the needs assessment and provide a detailed accounting of results that will enable RUS and EPA to advance to Phase 3 of the project. The grant will have a start date of July 1, 2014 and end on December 31, 2014.

The study will be done only in the colonias areas. For RUS programs, Colonia is defined as a community that (1) is in the state of Arizona, California, New Mexico, or Texas; (2) is within 150 miles of the U.S.-Mexico border, except for any metropolitan area exceeding one million people; (3) on the basis of objective criteria, lacks adequate sewage systems and lacks decent, safe, and sanitary housing; and (4) existed as a colonia before October 1, 1989. However, the needs assessment may include other rural areas classified as Colonias by other state and Federal agencies. RUS intends to award one grant to an eligible entity for up to $500,000. The grantee will be expected to commence work July 1, 2014 and submit all deliverables by December 31, 2014

**DATES:** You may submit completed applications for the Colonias Water and Waste Disposal Needs Assessment grants on paper or electronically according to the following deadlines:

*Paper submissions:* Paper submission of an application must be postmarked and mailed, shipped, or sent overnight from the date this NOFA is published through June 3, 2014, to be eligible for grant funding. Late or incomplete applications will not be eligible for grant funding.

*Electronic Submissions:* Submit electronic grant applications at *http://www.grants.gov* (Grants.gov) and follow the instructions you find on that Web site. Electronic submissions of applications must be received from the date this NOFA is published through June 3, 2014, to be eligible for grant funding. Late or incomplete applications will not be eligible for grant funding.

**ADDRESSES:** You may obtain application guides and materials for the Technical Assistance and Training grants the following ways:

- The Internet at the RUS Water and Environmental Programs (WEP) Web site: *http://www.rurdev.usda.gov/UWP-wwtat.htm*
- You may also request application guides and materials from RUS by contacting WEP at (202) 720–9589.

**FOR FURTHER INFORMATION CONTACT:** Anita O'Brien, Community Program Specialist, Water & Environmental Programs, Rural Utilities Service, U.S. Department of Agriculture (USDA), Room 2231 South Building, Stop 1570, 1400 Independence Ave. SW., Washington, DC 20250–1570. Telephone: (202) 690–3789, FAX: (202) 690–0649, Email: *anita.obrien@wdc.usda.gov.*

**SUPPLEMENTARY INFORMATION:**

#### Overview

*Federal Agency:* Rural Utilities Service (RUS).

*Funding Opportunity Title:* Colonias Water Resource Studies Grant.

*Announcement Type:* Funding Level Announcement, and Solicitation of Applications.

*Authority:* 7 U.S.C. 1926 (a)(14); Public Law 111–5, 123 Stat. 115.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 10.761.

*Due Dates for Applications:* Completed Colonias Water Resource Studies grant applications must be mailed, shipped or submitted electronically through Grants.gov no later than June 3, 2014 to be eligible for funding.

#### Items in Supplementary Information

I. *Funding Opportunity:* Brief introduction to the Technical Assistance and Training Grants.

II. *Award Information:* Available funds, maximum amounts. $500,000.

III. *Eligibility Information:* Who is eligible, what kinds of projects are eligible, what criteria determine basic eligibility.

IV. *Application and Submission Information:* Where to get application materials, what constitutes a completed application, how and where to submit applications, deadlines and items that are eligible.

V. *Application Review Information:* Considerations and preferences, scoring criteria, review standards and selection information.

VI. *Award Administration Information:* Award notice information and award recipient reporting requirements.

VII. *Agency Contacts:* Web, phone, fax, email, and contact name.

#### I. Funding Opportunity

The U.S.-Mexico Border Region is a dynamic area where public health and environmental challenges are interconnected, populations intermingle, and water resources are shared by both countries. USDA and EPA work collaboratively with partners to address critical public health and environmental problems at the source by providing often first-time drinking and wastewater services to underserved communities. The agencies have embarked on a joint project to improve estimates of gaps in community infrastructure and to pilot approaches to technical assistance and capacity building that can be applied more broadly and be provided in a manner that can be sustained long term by building capacity in the communities to improve and maintain adequate infrastructure. Ultimately, the project will identify and vet approaches to support small communities that can be supported cooperatively by all stakeholders.

The Rural Utilities Service (RUS) supports the sound development of rural communities and the growth of our economy without endangering the environment. RUS provides financial and technical assistance to help communities bring safe drinking water and sanitary, environmentally sound waste disposal facilities to rural Americans in greatest need.

The additional funding for the Colonias Studies, under the TAT Grant Program, will allow colonias communities to better plan and secure dependable water supplies for rebuilding their community's health and economic development. Qualified private non-profit organizations may apply to receive a grant to conduct water infrastructure studies to evaluate infrastructure gaps, determine local stakeholders and institutions, access community funding opportunities and provide technical support to colonias communities.

Deliverables required under this colonias TAT grant are:

1. Creation of a searchable database of information required to be collected as part of the needs assessment. A full list of the information collection requirements is detailed in the application guide, and includes such data as population, general demographics, existing water and waste disposal infrastructure, incidence rate of water borne infectious disease, assessment of access to indoor plumbing, etc. The database must include geospatial information that allows for mapping.

2. A report (in electronic and paper form) summarizing and analyzing the data collected that:

- Identifies areas of greatest need and where investment will have highest economic and public health impact (including maps).
- Identifies areas that lack access to water and/or waste disposal infrastructure.
- Estimates the capital investment needed in water and waste disposal infrastructure in the study area (modest in scope and design). The estimate should include a listing of each colonia assessed, identification of the type of infrastructure required and the recommended approach (i.e., connection to existing system, new cluster system, centralized system and estimated capital costs).
- Provides information on communities' capacity to apply for funding, and operate and maintain utilities.
- Identifies the areas where other technical assistance is needed and for what purposes;

3. Lists of local institutions/community leaders that can serve as points of contacts for the targeted communities.

4. Recommends approaches for technical assistance and outreach to communities in high needs areas.

5. This report is due by December 31, 2014.

## II. Award Information

*Available funds:* $500,000.

## III. Eligibility Information

A. What are the basic eligibility requirements for applying? (For more specific information see 7 CFR 1775, Section 1775.35.) The applying entity (Applicant) must:

1. Have an active registration with current information in the System for Award Management (SAM) (previously the Central Contractor Registry (CCR)_at *https://www.sam.gov* and have a Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number.

2. Be legally established, located within a state within the United States, the District of Columbia, the Commonwealth of Puerto Rico or a United States territory and have the proven ability, background, experience, legal authority and actual capacity to provide technical assistance and/or training to carry out the grant purpose.

3. Have no delinquent debt to the Federal Government or no outstanding judgments to repay a Federal debt.

*B. What are the basic eligibility requirements for a project?*

The project must be a colonias water resource study that will evaluate and recommend sources of dependable water supply and infrastructure that can be developed and used by colonias communities in one or more of the colonias states of Arizona, California, New Mexico, or Texas.

*C. Other-Requirements*

1. DUNS numbers and SAM Registration. Applicants must have Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) numbers and be registered in System for Award Management (SAM) at *https://www.sam.gov* prior to submitting an electronic or paper application. The DUNS numbers and SAM requirements are contained in 2 CFR part 25. SAM is the repository for standard information about applicants and recipients.

2. DUNS Number. As required by the OMB, all applicants for grants must supply a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying. The Standard Form 424 (SF–424) contains a field for you to use when supplying your DUNS number. Obtaining a DUNS number costs nothing and requires a short telephone call to Dun and Bradstreet. Please see *http://www.grants.gov/applicants/request_duns_number.jsp* for more information on how to obtain a DUNS number or how to verify your organization's number.

3. System for Award Management (SAM). In accordance with 2 CFR part 25, applicants, whether applying electronically or by paper, must be registered in SAM prior to submitting an application. Applicants may register for the SAM at *https://www.sam.gov.* The SAM registration must remain active, with current information, at all times during which an entity has an application under consideration by an agency or has an active Federal Award. To remain registered in the SAM database after the initial registration, the applicant is required to review and update on an annual basis from the date of initial registration or subsequent updates of its information in the SAM database at *https://www.sam.gov* to ensure it is current, accurate and complete.

## IV. Application and Submission Information

A. Where to get application information. The grant application guide, copies of necessary forms and samples, and the Technical Assistance Grants regulation (7 CFR 1775) are available from these sources:

- The Internet: *http://www.rurdev.usda.gov/UWP-wwtat.htm.*
- *http://www.grants.gov.* or,
- Water and Environmental Programs for paper copies of these materials: Telephone: (202) 720–9589

1. You may file an application in either paper or electronic format. Whether you file a paper or an electronic application, you will need a Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number. You must provide your DUNS number on the SF–424, ''Application for Federal Assistance''. To verify that your organization has a DUNS number or to receive one at no cost, call the dedicated toll-free request line at 1–866–705–5711 or access the Web site *http://www.dunandbradstreet.com.* You will need the following information when requesting a DUNS number:

a. Legal Name of the Applicant;

b. Headquarters name and address of the Applicant;

c. The names under which the Applicant is doing business as (dba) or other name by which the organization is commonly recognized;

d. Physical address of the Applicant;

e. Mailing address (if separate from headquarters and/or physical address) of the Applicant;

f. Telephone number;

g. Contact name and title;

h. Number of employees at the physical location.

2. Send or deliver paper applications by the U.S. Postal Service (USPS) or

courier delivery services to the RUS receipt point set forth below. RUS will not accept applications by fax or email. For paper applications mail or ensure delivery of an original paper application (no stamped, photocopied, or initialed signatures) and two copies by June 3, 2014 to the following address: Assistant Administrator, Water and Environmental Programs, Rural Utilities Service, 1400 Independence Avenue SW., STOP 1548, Room 5145 South, Washington, DC 20250–1548.

The application and any materials sent with it become Federal records by law and cannot be returned to you.

3. For electronic applications, you must file an electronic application at the Web site: *www.grants.gov.* You must be preregistered with Grants.gov before you can submit a grant application. If you have not used Grants.gov before, you will need to register with the SAM at *https://www.sam.gov.* You will need a DUNS number to access or register at any of the services. The registration processes may take several business days to complete. Follow the instructions at Grants.gov for registering and submitting an electronic application. RUS may request original signatures on electronically submitted documents later.

The Credential Provider gives you or your representative a username and password, as part of the Federal Government's e-Authentication to ensure a secure transaction. You will need the username and password when you register with Grants.gov or use Grants.gov to submit your application. You must register with the Central Provider through Grants.gov: *https://apply.grants.gov/OrcRegister.*

*B. What constitutes a completed application?*

1. To be considered for assistance, you must be an eligible entity and must submit a complete application by the deadline date.

You must consult the cost principles and general administrative requirements for grants pertaining to their organizational type in order to prepare the budget and complete other parts of the application.

You also must demonstrate compliance (or intent to comply), through certification or other means, with a number of public policy requirements.

2. Applicants must complete and submit the following forms to apply for a Technical Assistance and Training grant:

(a) Standard Form 424, ''Application for Federal Assistance (For Non-Construction)''.

(b) Standard Form 424A, ''Budget Information—Non-Construction Programs''.

(c) Standard Form 424B, ''Assurances—Non-Construction Programs''.

(d) SF–LLL, ''Disclosure of Lobbying Activity''.

(e) Form AD 1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transaction''.

(f) Form AD 1049, ''Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I—For Grantees Other Than Individuals''.

(g) Form AD 1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions''.

(h) Form RD 400–1, ''Equal Opportunity Agreement''.

(i) Form RD 400–4, ''Assurance Agreement (Under Title VI, Civil Rights Act of 1964)''.

(j) AD–3030, ''Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicant''.

(k) AD–3031, ''Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicant''.

(l) Indirect Cost Rate Agreement (if applicable, applicant must include approved cost agreement rate schedule).

(m) Certification regarding Forest Service grant.

(n) Attachment regarding assistance provided to Rural Development Employees as required by RD Instruction 1900–D.

3. All applications shall be accompanied by the following supporting documentation:

(a) Evidence of applicant's legal existence and authority in the form of:

(i) Certified copies of current authorizing and organizational documents for new applicants or former grantees where changes were made since the last legal opinion was obtained in conjunction with receipt of an RUS grant, or, certification that no changes have been made in authorizing or organizing documents since receipt of last RUS grant by applicant;

(ii) Current annual corporation report and Certificate of Good Standing. If the jurisdiction in which the applicant is organized does not require or issue such documentation, or the applicant otherwise cannot provide it, the applicant must submit a statement explaining why the supporting documentation is not included with the application; and;

(iii) Certified list of directors/officers with their respective terms.

(b) Evidence of tax exempt status from the Internal Revenue Service (IRS).

(c) Narrative of applicant's experience in providing services similar to those proposed. Provide brief description of successfully completed projects including the need that was identified and objectives accomplished.

(d) Latest financial information to show the applicant's financial capacity to carry out the proposed work. A current audit report is preferred; however applicants can submit a balance sheet and an income statement in lieu of an audit report.

(e) List of proposed services to be provided.

(f) Estimated breakdown of costs (direct and indirect) including those to be funded by grantee as well as other sources. Sufficient detail should be provided to permit the approval official to determine reasonableness, applicability, and allowability.

(g) Evidence that a Financial Management System is in place or proposed.

(h) Documentation on each of the priority ranking criteria listed in 7 CFR 1775, § 1775.11 as modified in the application guide and listed below:

(i) Methodology: Describe the method by which you will conduct the study and complete deliverables.

(ii) Experience of the applicant in conducting similar types of work or in assessing needs in Colonias areas.

(iii) Personnel on staff or to be contracted to conduct the assessment and complete deliverables and their experience with similar projects. Also describe any existing partnerships that will be leveraged to meet the deliverables.

(iv) Documentation on cost effectiveness of methodology and approach proposed to complete the project.

4. Applicants must also submit a work plan/project proposal that will outline the project in sufficient detail to provide a reader with a complete understanding of how the proposed Colonias Water and Waste Disposal Assessment will be conducted and how deliverables will be met. The proposal should cover the following elements (in addition to information contained in 7 CFR 1775 Sections 1775.10 and 1775.11).

(a) Present a brief project overview. Explain your understanding of the purpose of the project, how it relates to the RUS goals, how you will carry out the project, what the project will produce, and who will direct it.

(b) Prepare a detailed timeline of activities proposed that clearly defines when work will be completed, and deliverables submitted for review and final approval.

(c) In addition to completing the standard application forms, you must also submit supplementary materials, as follows:

(i) Demonstrate that your organization is legally recognized under state and Federal law. Satisfactory documentation includes, but is not limited to, certificates from the Secretary of State, or copies of state statutes or laws establishing your organization. Letters from the IRS awarding tax-exempt status are not considered adequate evidence.

(ii) Submit a certified list of directors and officers with their respective terms.

(iii) Submit evidence of tax-exempt status from the Internal Revenue Service.

(iv) You must disclose debarment and suspension information required in accordance with 2 CFR 417 if it applies. The section heading is ''What information must I provide before entering into a covered transaction with the Department of Agriculture?'' It is part of the Department of Agriculture's rules on Government-wide Debarment and Suspension. Corporations that have been convicted of a felony (or had an officer or agent acting on behalf of the corporation convicted of a felony) within the past 24 months are not eligible. Any Corporation that has any unpaid federal tax liability that has been assessed for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, is not eligible.

(v) Submit the most recent audit of your organization.

## V. Application Review Information

A. Within 30 days of receiving your application, RUS will acknowledge the application's receipt by letter to the Applicant. The application will be reviewed for completeness to determine if it contains all of the items required. If the application is incomplete or ineligible, RUS will return it to the Applicant with an explanation.

B. A review team, composed of at least two members, will evaluate all applications and proposals. They will make overall recommendations based on factors such as eligibility, application completeness, and conformity to application requirements. They will score the applications based on criteria in paragraph C of this section.

*C. Low Priority Applications*

Applications that cannot be funded in the fiscal year received will not be retained for consideration in the following fiscal year.

D. All applications that are complete and eligible will be scored based on the criteria outlined in 7 CFR 1775, 1775.10, 1775.11 and RUS Guide 1775–2. After each application is scored they will be ranked competitively. The categories for scoring criteria used are the following:

| | Scoring criteria |
|---|---|
| 1. Applicant Status: National Organization, Multi-State, State | Up to 10. |
| 2. Degree of expertise in conducting similar assessments and producing deliverables such as those specified in grant | Up to 5. |
| 3. Applicant Resource (staff vs. contract personnel) Applicant may not contract with a nonaffiliated organization for more than 49 percent of the grant to provide the proposed assistance. | Up to 10. |
| 4. Description of the service area: Particularly of the governance structures in place and opportunities to leverage existing partnerships. (Medium Household Income and Population are considered in this scoring criterion). | Up to 25. |
| 5. Project Duration: Points are awarded for projects that accomplish objectives within a 12 month period | Up to 5. |
| 6. Needs Assessment: Extent of understanding of the purpose of the project | Up to 15. |
| 7. Goals/Objectives: Goals and objectives should be clearly defined, tied to the need as defined in the work plan, and are measurable. | Up to 15. |
| 8. Work plan: Extent to which the work plan clearly articulates a well thought out approach and methodology to accomplishing objectives. | Up to 40. |
| 9. Actual assistance provided: Scope of assistance (ability to conduct assistance in the colonias areas in Arizona, California, New Mexico, or Texas) as defined in this NOFA. | Up to 20. |
| 10. Methodology: Extent to which the evaluation methods are specific to the program, clearly defined, measurable, with expected project outcomes. | Up to 20. |
| 11. Percentage of applicant's contributions (in-kind support) | Up to 10. |
| 12. Sustainability: Applicant demonstrates ability to sustain project without federal award using a thorough financial analysis to include: Cash on hand, projected revenues, outside source contributions, and show a steady increase to sustainability within 5 years. | Up to 10. |
| 13. Prior Grant/Years Funded | Up to 15. |
| 10. Administrative Discretion | Up to 15. |

## VI. Award Administration Information

A. RUS will rank all qualifying applications by their final score. Applications will be selected for funding, based on the highest scores and the availability of funding for the Colonias Water Resource Studies grants.

B. In making our decision about your application, RUS may determine that your application is:

1. Eligible and selected for funding;

2. Eligible but offered fewer funds than requested;

3. Eligible but not selected for funding; or

4. Ineligible for the grant.

C. In accordance with 7 CFR part 1900, subpart B, you generally have the right to appeal adverse decisions. Some adverse decisions cannot be appealed. For example, if you are denied RUS funding due to a lack of funds available for the grant program, this decision cannot be appealed. However, you may make a request to the National Appeals Division (NAD) to review the accuracy of our finding that the decision cannot be appealed. The appeal must be in writing and filed at the appropriate Regional Office, which can be found at *http://www.nad.usda.gov/offices.htm* or by calling (703) 305–1166.

D. Applicants selected for funding will complete a grant agreement, which outlines the terms and conditions of the grant award.

E. Grantees will be reimbursed as follows:

1. SF–270, ''Request for Advance or Reimbursement,'' will be completed by the grantee and submitted to either the State or National Office not more frequently than monthly.

2. Upon receipt of a properly completed SF–270, payment will ordinarily be made within 30 days.

F. Any change in the scope of the project, budget adjustments of more

than 10 percent of the total budget, or any other significant change in the project must be reported to and approved by the approval official by written amendment to RUS Guide 1775–1 (Grant Agreement). Any change not approved may be cause for termination of the grant.

G. Project reporting.

1. Grantees shall constantly monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved.

2. SF–425, ''Federal Financial Report,'' and a project performance activity report will be required of all grantees on a quarterly basis, due 30 days after the end of each quarter.

3. A final project performance report will be required with the last SF–269 due 90 days after the end of the last quarter in which the project is completed. The final report may serve as the last quarterly report.

4. All grantees are to submit an original of each report to the National Office. The project performance reports should detail, preferably in a narrative format, activities that have transpired for the specific time period.

H. Recipient and Subrecipient Reporting.

The applicant must have the necessary processes and systems in place to comply with the reporting requirements for first-tier sub-awards and executive compensation under the Federal Funding Accountability and Transparency Act of 2006 in the event the applicant receives funding unless such applicant is exempt from such reporting requirements pursuant to 2 CFR part 170, § 170.110(b). The reporting requirements under the Transparency Act pursuant to 2 CFR part 170 are as follows:

1. First Tier Sub-Awards of $25,000 or more in non-Recovery Act funds (unless they are exempt under 2 CFR part 170) must be reported by the Recipient to *http://www.fsrs.gov* no later than the end of the month following the month the obligation was made.

2. The Total Compensation of the Recipient's Executives (5 most highly compensated executives) must be reported by the Recipient (if the Recipient meets the criteria under 2 CFR part 170) to *http://www.sam.gov* by the end of the month following the month in which the award was made.

3. The Total Compensation of the Subrecipient's Executives (5 most highly compensated executives) must be reported by the Subrecipient (if the Subrecipient meets the criteria under 2 CFR part 170) to the Recipient by the end of the month following the month in which the subaward was made.

I. The grantee will provide an audit report or financial statements as follows:

1. Grantees expending $500,000 or more Federal funds per fiscal year will submit an audit conducted in accordance with OMB Circular A–133. The audit will be submitted within 9 months after the grantee's fiscal year. Additional audits may be required if the project period covers more than one fiscal year.

2. Grantees expending less than $500,000 will provide annual financial statements covering the grant period, consisting of the Grantee's statement of income and expense and balance sheet signed by an appropriate official of the Grantee. Financial statements will be submitted within 90 days after the grantee's fiscal year.

### VII. Agency Contacts

A. Web site: *http://www.rurdev.usda.gov/UWP-wwtat.htm.* The RUS' Web site maintains up-to-date resources and contact information for Technical Assistance and Training Grants program.

B. Phone: 202–720–9589

C. Fax: 202–690–0649.

D. Email: *anita.obrien@wdc.usda.gov.*

E. Main point of contact: Anita O'Brien, Community Program Specialist, Water and Environmental Programs, Water Programs Division, Rural Utilities Service, U.S. Department of Agriculture.

Dated: February 12, 2014.

**John Charles Padalino,**

*Acting Administrator, Rural Utilities Service.*

[FR Doc. 2014–07567 Filed 4–3–14; 8:45 am]

**BILLING CODE 3410–15–P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

**[Docket No. 140312238–4238–01]**

**RIN 0694–XC013**

## Reporting for Calendar Year 2013 on Offsets Agreements Related to Sales of Defense Articles or Defense Services to Foreign Countries or Foreign Firms

**AGENCY:** Bureau of Industry and Security, Department of Commerce.

**ACTION:** Notice; annual reporting requirements.

**SUMMARY:** This notice is to remind the public that U.S. firms are required to report annually to the Department of Commerce (Commerce) information on contracts for the sale of defense articles or defense services to foreign countries or foreign firms that are subject to offsets agreements exceeding $5,000,000 in value. U.S. firms are also required to report annually to Commerce information on offsets transactions completed in performance of existing offsets commitments for which offsets credit of $250,000 or more has been claimed from the foreign representative. This year, such reports must include relevant information from calendar year 2013 and must be submitted to Commerce no later than June 15, 2014.

**ADDRESSES:** Reports should be addressed to ''Offsets Program Manager, U.S. Department of Commerce, Office of Strategic Industries and Economic Security, Bureau of Industry and Security, Room 3878, Washington, DC 20230.''

**FOR FURTHER INFORMATION CONTACT:** Ronald DeMarines, Office of Strategic Industries and Economic Security, Bureau of Industry and Security, U.S. Department of Commerce, telephone: 202–482–3755; fax: 202–482–5650; email: *ronald.demarines@bis.doc.gov*.

**SUPPLEMENTARY INFORMATION:**

### Background

Section 723(a)(1) of the Defense Production Act of 1950, as amended (DPA) (50 U.S.C. app. § 2172 (2009) requires the President to submit an annual report to Congress on the impact of offsets on the U.S. defense industrial base. Section 723(a)(2) directs the Secretary of Commerce (Secretary) to prepare the President's report and to develop and administer the regulations necessary to collect offsets data from U.S. defense exporters.

The authorities of the Secretary regarding offsets have been delegated to the Under Secretary of Commerce for Industry and Security. The regulations associated with offsets reporting are set forth in part 701 of title 15 of the Code of Federal Regulations. Offsets are compensation practices required as a condition of purchase in either government-to-government or commercial sales of defense articles and/or defense services, as defined by the Arms Export Control Act and the International Traffic in Arms Regulations. For example, a company that is selling a fleet of military aircraft to a foreign government may agree to offset the cost of the aircraft by providing training assistance to plant managers in the purchasing country. Although this distorts the true price of the aircraft, the foreign government may require this sort of extra compensation as a condition of awarding the contract to purchase the aircraft. As described in

the regulations, U.S. firms are required to report information on contracts for the sale of defense articles or defense services to foreign countries or foreign firms that are subject to offsets agreements exceeding $5,000,000 in value. U.S. firms are also required to report annually information on offsets transactions completed in performance of existing offsets commitments for which offsets credit of $250,000 or more has been claimed from the foreign representative.

Commerce's annual report to Congress includes an aggregated summary of the data reported by industry in accordance with the offsets regulation and the DPA (50 U.S.C. app. § 2172 (2009). As provided by section 723(c) of the DPA, BIS will not publicly disclose individual firm information it receives through offsets reporting unless the firm furnishing the information specifically authorizes public disclosure. The information collected is sorted and organized into an aggregate report of national offsets data, and therefore does not identify company-specific information.

In order to enable BIS to prepare the next annual offset report reflecting calendar year 2013 data, U.S. firms must submit required information on offsets agreements and offsets transactions from calendar year 2013 to BIS no later than June 15, 2014.

Dated: March 25, 2014.

**Kevin J. Wolf,**

*Assistant Secretary for Export Administration.*

[FR Doc. 2014–07507 Filed 4–3–14; 8:45 am]

**BILLING CODE 3510–JT–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[Docket No. 140326277–4277–01]**

### Call for Applications for the International Buyer Program Select Service for Calendar Year 2015

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice and Call for Applications.

**SUMMARY:** The U.S. Department of Commerce (DOC) announces that it will begin accepting applications for the International Buyer Program (IBP) Select service for calendar year 2015 (January 1, 2015 through December 31, 2015). This announcement sets out the objectives, procedures and application review criteria for IBP Select. Under IBP Select, the International Trade Administration (ITA) recruits international buyers to U.S. trade shows to meet with U.S suppliers exhibiting at those shows. The main difference between IBP and IBP Select is that IBP offers worldwide promotion, whereas IBP Select focuses on promotion and recruitment in no more than five international markets. Specifically, through the IBP Select, the DOC selects domestic trade shows that will receive DOC assistance in the form of targeted promotion and recruitment in five foreign markets, export counseling to exhibitors, and export counseling and matchmaking services at the trade show. This notice covers selection for IBP Select participation during calendar year 2015. It also announces a new pilot initiative for the IBP Select, which will allow selected trade show organizers to add target markets beyond the five selected markets at a cost.

**DATES:** Applications for IBP Select must be received by May 19, 2014.

**ADDRESSES:** Applications may be submitted by any of the following methods: (1) Mail/Hand Delivery Service: International Buyer Program, Trade Promotion Programs, International Trade Administration, U.S. Department of Commerce, Ronald Reagan Building, 1300 Pennsylvania Ave. NW., Suite 800—Mezzanine Level—Atrium North, Washington, DC 20004; (2) Facsimile: (202) 482–7800; or (3) email: *IBP2015@trade.gov*. Facsimile and email applications will be accepted as interim applications, and must be followed by a signed original application that is received by the program no later than five (5) business days after the application deadline. To ensure that applications are received by the deadline, applicants are strongly urged to send applications by express delivery service (e.g., U.S. Postal Service Express Delivery, Federal Express, UPS, etc.).

**FOR FURTHER INFORMATION CONTACT:** Gary Rand, Director, International Buyer Program, Trade Promotion Programs, International Trade Administration, U.S. Department of Commerce, 1300 Pennsylvania Ave. NW., Ronald Reagan Building, Suite 800M—Mezzanine Level—Atrium North, Washington, DC 20004; Telephone (202) 482–0691; Facsimile: (202) 482–7800; Email: *IBP2015@trade.gov*.

**SUPPLEMENTARY INFORMATION:** The IBP was established in the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418, title II, § 2304, codified at 15 U.S.C. 4724) to bring international buyers together with U.S. firms by promoting leading U.S. trade shows in industries with high export potential. The IBP emphasizes cooperation between the DOC and trade show organizers to benefit U.S. firms exhibiting at selected events and provides practical, hands-on assistance such as export counseling and market analysis to U.S. companies interested in exporting. Shows selected for the IBP Select will provide a venue for U.S. companies interested in expanding their sales into international markets.

Through the IBP, the DOC selects trade shows that DOC determines to be leading trade shows with participation by U.S. firms interested in exporting. DOC provides successful applicants with assistance in the form of targeted overseas promotion of the show by U.S. Embassies and Consulates; outreach to show participants about exporting; recruitment of potential buyers to attend the events; and staff assistance in setting up and staffing international trade centers at the events. Targeted promotion in no more than five markets can be executed through the overseas offices of ITA or in U.S. Embassies in countries where ITA does not maintain offices.

ITA is accepting applications for IBP Select from trade show organizers of trade events taking place between January 1, 2015 and December 31, 2015. Selection of a trade show for IBP Select is valid for one event. A trade show organizer seeking selection for a recurring event must submit a new application for selection for each occurrence of the event. For events that occur more than once in a calendar year, the trade show organizer must submit a separate application for each event.

There is no fee required to submit an application. For IBP Select in calendar year 2015, ITA expects to select approximately 10 events from among the applicants. ITA will select those events that are determined to most clearly support the statutory mandate in 15 U.S.C. 4721 to promote U.S. exports, especially those of small- and medium-sized enterprises, and that best meet the selection criteria articulated below. Once selected, applicants will be required to enter into a Memorandum of Agreement (MOA) with the DOC, and submit payment of the $6,000 2015 participation fee within 30 days of written notification of acceptance into IBP Select. The MOA constitutes an agreement between the DOC and the show organizer specifying which responsibilities for international promotion and export assistance services at the trade shows are to be undertaken by the DOC as part of the IBP Select and, in turn, which responsibilities are to be undertaken by the show organizer. Anyone requesting

application information will be sent a sample copy of the MOA along with the application form and a copy of this **Federal Register** Notice. Applicants are encouraged to review the MOA closely, as IBP Select participants are expected to comply with all terms, conditions, and obligations in the MOA. Trade show organizer obligations include the construction of an International Trade Center at the trade show, production of an export interest directory, and provision of complimentary hotel accommodations for DOC staff as explained in the MOA. The responsibilities to be undertaken by the DOC will be carried out by ITA. ITA responsibilities include targeted promotion of the trade show and, where feasible, recruitment of international buyers to that show from the five target markets identified, provision of on-site export assistance to U.S. exhibitors at the show, and the reporting of results to the show organizer.

Selected show organizers will also be able to procure the services of our staff in the Embassies and Consulates beyond the five already agreed-upon markets to (1) escort buyers from those markets to the show, and (2) provide at-show services such as translation, logistical support, and introductions to U.S. suppliers. This secondary level of service for markets beyond the original five markets *does not include* recruitment of the delegations from those markets. The cost for this additional service is based on the cost of the Embassy or Consulate staff person, i.e., delegation leader, escorting the delegation to the show and providing at-show services. This secondary service will be priced at $1,250 per each additional delegation, and the total fee to be charged will not exceed $9,750 (meaning no more than three additional delegations are acceptable) for participating in the IBP Select. The show organizer will also be responsible for providing complimentary lodging for the delegation leader providing this secondary service.

Selection as an IBP Select show does not constitute a guarantee by DOC of the show's success. IBP Select participation status is not an endorsement of the show except as to its international buyer activities. Non-selection of an applicant for IBP Select status should be viewed as a determination that the event will not be successful in promoting U.S. exports.

*Eligibility:* 2015 U.S. trade events, through the show organizer, with 1,200 or fewer exhibitors are eligible to apply for IBP Select participation. First-time events will also be considered.

*Exclusions:* U.S. trade shows with over 1,200 exhibitors will not be considered for IBP Select.

*General Evaluation Criteria:* ITA will evaluate applicants for IBP Select participants using the following criteria:

(a) Export Potential: The trade show promotes products and services from U.S. industries that have high export potential, as determined by DOC sources, including industry analysts' assessment of export potential, ITA best prospects lists, and U.S. export analysis.

(b) Level of International Interest: The trade show meets the needs of a significant number of overseas markets and corresponds to marketing opportunities as identified by ITA. Previous international attendance at the show may be used as an indicator.

(c) Scope of the Show: The event must offer a broad spectrum of U.S. made products and services for the subject industry. Trade shows with a majority of U.S. firms as exhibitors are given priority.

(d) U.S. Content of Show Exhibitors: Trade shows with exhibitors featuring a high percentage of products produced in the United States or products with a high degree of U.S. content will be preferred.

(e) Stature of the Show: The trade show is clearly recognized by the industry it covers as a leading event for the promotion of that industry's products and services both domestically and internationally, and as a showplace for the latest technology or services in that industry.

(f) Level of Exhibitor Interest: There is significant interest on the part of U.S. exhibitors in receiving international business visitors during the trade show. A significant number of U.S. exhibitors should be new-to-export or seeking to expand their sales into additional export markets.

(g) Level of Overseas Marketing: There has been a demonstrated effort by the applicant to market prior shows overseas. In addition, the applicant should describe in detail the international marketing program to be conducted for the event, and explain how efforts should increase individual and group international attendance.

(h) Level of Cooperation: The applicant demonstrates a willingness to cooperate with ITA to fulfill the program's goals and adhere to the target dates set out in the MOA and in the event timetables, both of which are available from the program office (see the **FOR FURTHER INFORMATION CONTACT** section above). Past experience in the IBP will be taken into account in evaluating the applications received.

(i) Delegation Incentives: Waived or reduced admission fees are required for international attendees who are participating in IBP Select. Delegation leaders also must be provided complimentary admission to the event. In addition, show organizers should offer a range of incentives to delegations and/or delegation leaders recruited by the DOC overseas posts. Examples of incentives to international visitors and to organized delegations include: Special organized events, such as receptions, meetings with association executives, briefings, and site tours; or complimentary accommodations for delegation leaders.

*Review Process:* ITA will vet all applications received based on the criteria set out in this notice. Vetting will include soliciting input from ITA industry analysts, as well as domestic and international field offices, focusing primarily on the export potential, level of international interest, and stature of the show. In reviewing applications, ITA will also consider sector and calendar diversity in terms of the need to allocate resources to support selected events.

*Application Requirements:* Show organizers submitting applications for 2015 IBP Select are required to submit: (1) A narrative statement addressing each question in the application, OMB 0625–0151 (found at *www.export.gov/ibp*); and (2) a signed statement that ''The above information provided is correct and the applicant will abide by the terms set forth in this Call for Applications for the International Buyer Program Select (January 1, 2015 through December 31, 2015);'' on or before the deadline noted above. There is no fee required to apply. ITA expects to issue the results of this process in July 2014.

**Legal Authority:** The statutory program authority for ITA to conduct the IBP is 15 U.S.C. 4724. ITA has the legal authority to enter into MOAs with show organizers under the provisions of the Mutual Educational and Cultural Exchange Act of 1961 (MECEA), as amended (22 U.S.C. sections 2455(f) and 2458(c)). MECEA allows ITA to accept contributions of funds and services from firms for the purposes of furthering its mission. The Office of Management and Budget (OMB) has approved the information collection requirements of the application to this program (0625–0151) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (OMB Control No. 0625–0151). Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

For further information please contact: Gary Rand, Director, International Buyer Program (*IBP2015@trade.gov*).

**Elnora Moye,**

*Trade Program Assistant.*

[FR Doc. 2014–07513 Filed 4–3–14; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD221**

### New England Fishery Management Council (NEFMC); Public Meetings

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) will hold a 3-day meeting on April 22–24, 2014 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

**DATES:** The meeting will be held on Tuesday, Wednesday and Thursday, starting at 9:30 a.m. on Tuesday, April 22; and 8:30 a.m. on Wednesday and Thursday, April 23 and 24, 2014.

**ADDRESSES:** The meeting will be held at the Hilton Hotel, 20 Coogan Boulevard, Mystic, CT 06355–1900. The telephone number is (860) 572–0731. Information can be found online at *www.hiltonmystic.com/.*

*Council Address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone: (978) 465–0492.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

**SUPPLEMENTARY INFORMATION:**

**Tuesday, April 22, 2014**

The Council meeting will begin with introductions and brief reports from the NEFMC Chairman and Executive Director, the NOAA Fisheries Regional Administrator, the Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, NOAA General Counsel and NOAA Law Enforcement, and representatives of the Atlantic States Marine Fisheries Commission and the U.S. Coast Guard. A report from the Council's Scientific and Statistical Committee (SSC) Chairman will follow. Topics to be discussed include committee comments on the proposed NOAA stock assessment prioritization process, recommendations on the use of multiple models in assessments and the development of catch advice, and a summary of the SSC's discussion on the role of social scientists on the SSC. Following a lunch break, the Council Chairman will provide a briefing on the recent East Coast Climate Change and Fisheries Governance Workshop. The Northeast Regional Planning Body will report on its activities to coordinate and manage the range of activities that occur in the marine and coastal environment in New England waters. The NEFMC Herring Committee will ask the Council to take final action on Framework Adjustment 4 to the Atlantic Herring Fishery Management Plan (FMP). During the discussion, the NEFMC will consider alternatives to address several measures disapproved in Herring Amendment 5 (dealer weighing requirements and measures to address net slippage). The discussion also will include input from the Herring Committee and its Advisory Panel, and the Council's Enforcement Committee.

**Wednesday, April 23, 2014**

During the second day of the meeting, the Enforcement Committee will provide its comments on NOAA Fisheries revised penalty schedule for fishery violations and possibly review any comments on a proposed rule about revised trawl gear stowage provisions. A presentation will follow that will detail Council and Greater Northeast Regional Fisheries Office staff recommendations on improvements to the preparation of fishery management actions. The Northeast Fisheries Science Center's Science and Research Director will present information on costs associated with the Northeast Observer Program. Prior to a lunch break, the Council intends to give its approval for an omnibus amendment that would modify New England and Mid-Atlantic FMPs with respect to the use of standardized bycatch reporting methodology.

Following the break, there will be an opportunity for the public to provide brief comments on items that are relevant to Council business but are otherwise not listed on the published agenda. The Council will review and discuss a revised timeline and process to complete an amendment that will address monitoring to be funded by the fishing industry. The last two agenda items for this day will include a presentation on electronic monitoring and other technologies with potential for use in Northeast fisheries. During the second item, the Council's Research Steering Committee will discuss and request input on and approval of recommendations on research questions that address groundfish fishery information needs.

**Thursday, April 24, 2014**

Council actions on the final day of the meeting will focus on the Northeast Multispecies (Groundfish) FMP. As part of the development of Amendment 18, the Council will consider alternatives to address fleet diversity and accumulation limits in the groundfish fishery and could approve the range of alternatives to analyzed in the associated Draft Environmental Impact Statement (DEIS). During discussions on Framework Adjustment 52, an action to revise the commercial groundfish fishery accountability measures for southern and northern windowpane flounder stocks, the NEMFC may approve the range of alternatives to be analyzed in a DEIS for this action. The Council also may consider an emergency action request to implement an experimental cooperative research program.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: April 1, 2014.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2014–07527 Filed 4–3–14; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD207**

### Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of a public meeting.

**SUMMARY:** The Mid-Atlantic Fishery Management Council's (Council) Surfclam and Ocean Quahog Advisory Panel will hold a public meeting.

**DATES:** The meeting will be held on April 23, 2014, from 9 a.m. until noon.

**ADDRESSES:** The meeting will be held via webinar with a telephone-only connection option. Details on webinar registration and telephone-only connection details are available at: *http://www.mafmc.org.*

*Council Address:* Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

**FOR FURTHER INFORMATION CONTACT:** Christopher M. Moore Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 526–5255.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is to develop a fishery performance report by the Council's Surfclam and Ocean Quahog Advisory Panel. The intent of this report is to facilitate structured input from the Surfclam and Ocean Quahog Advisory Panel members to the Council and its Scientific and Statistical Committee (SSC).

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: April 1, 2014.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2014–07540 Filed 4–3–14; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD218**

### New England Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a public meeting of its Risk Policy Working Group (formerly called ABC Control Rule Working Group) to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** The meeting will be on Monday, April 21, 2014, at 10 a.m.

**ADDRESSES:** *Meeting Address:* The meeting will be held at the Hilton Hotel, 20 Coogan Boulevard, Mystic, CT 06355; telephone: (860) 572–0731; fax: (860) 572–0328.

*Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

**SUPPLEMENTARY INFORMATION:** The Risk Policy Working Group will begin the development of a risk policy to serve as guidance for ABC (acceptable biological catch) control rules for Council-managed species. The working group will discuss issues related to the development of the Council's risk policy, including but not limited to goals/objectives, umbrella approaches versus species-specific approaches, management strategy evaluation (MSE), and approaches utilized by other Councils. The working group will also discuss the timeline for developing a risk policy and identify milestones and Council decision points. The working group will also address other business as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

### Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: April 1, 2014.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2014–07526 Filed 4–3–14; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XA341**

### Marine Mammals; File No. 15324

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; receipt of application.

**SUMMARY:** Notice is hereby given that the Alaska Department of Fish and Game (ADF&G), Division of Wildlife Conservation, Juneau, AK, (Principal Investigator: Michael Rehberg), has applied for an amendment to Scientific Research Permit No. 15324 for taking multiple pinnipeds species in Alaska.

**DATES:** Written, telefaxed, or email comments must be received on or before May 5, 2014.

**ADDRESSES:** The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 15324 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may

also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

**FOR FURTHER INFORMATION CONTACT:** Tammy Adams or Courtney Smith, (301)427–8401.

**SUPPLEMENTARY INFORMATION:** The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 15324, issued on May 18, 2011 (76 FR 30309), authorizes the permit holder to take spotted (*Phoca largha*), ringed (*Phoca hispida*), bearded (*Erignathus barbatus*), and ribbon seals (*Histriophoca fasciata*) for scientific research purposes in the Bering, Chukchi, and Beaufort seas of Alaska. The purpose of this research is to monitor the status and health of each species by analyzing biological samples (e.g., blood, blubber, skin, muscle, and whiskers) from the subsistence harvest and live captured seals, and by documenting movements and habitat use by tracking animals with satellite transmitters. The permit holder is also authorized to harass non-target seals of each species and for a limited number of research-related mortalities. Additional biological samples can be imported from Russia, Canada, Svalbard (Norway) and exported to Canada for analyses. The permit is valid through December 31, 2016.

The permit holder is requesting the permit be amended to include authorization for several methodological changes: (1) Adding takes by harassment during aerial and vessel surveys as a method to monitor seal distribution relative to changes in sea ice; (2) increasing number of takes by incidental harassment during seal captures; (3) the use of additional sedative drugs as injectable immobilizing agents during currently permitted capture activities; and (4) the use of remote dart-delivery as a method for capturing bearded seals. The expiration date of the permit would not change.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: April 1, 2014.

**Tammy C. Adams,**

*Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2014–07537 Filed 4–3–14; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Telecommunications and Information Administration

### First Responder Network Authority Board Special Meeting

**AGENCY:** National Telecommunications and Information Administration, U.S. Department of Commerce.

**ACTION:** Notice of public meeting of the First Responder Network Authority.

**SUMMARY:** The Board of the First Responder Network Authority (FirstNet) will hold a Special Meeting via telephone conference (teleconference) on April 8, 2014.

**DATES:** The Special Meeting will be held on Tuesday, April 8, 2014, from 9:00 a.m. to 10:00 a.m. Eastern Time.

**ADDRESSES:** The Special Meeting will be conducted via teleconference. Members of the public may listen to the meeting by dialing toll-free 1–800–369–1868 and using passcode ''FirstNet.'' Due to the limited number of ports, attendance via teleconference will be on a first-come, first-served basis.

**FOR FURTHER INFORMATION CONTACT:** Uzoma Onyeije, Secretary, FirstNet, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230: telephone (202) 482–0016; email *uzoma@firstnet.gov.* Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002.

**SUPPLEMENTARY INFORMATION:**

*Background:* The Middle Class Tax Relief and Job Creation Act of 2012 (Act), Public Law 112–96, 126 Stat. 156 (2012), created FirstNet as an independent authority within the NTIA. The Act directs FirstNet to establish a single nationwide, interoperable public safety broadband network. The FirstNet Board is responsible for making strategic decisions regarding FirstNet's operations. As provided in Section 4.08 of the FirstNet Bylaws, the Board through this Notice provides at least two days' notice of a Special Meeting of the Board to be held on April 8, 2014. The Board may, by a majority vote, close a portion of the Special Meeting as necessary to preserve the confidentiality of commercial or financial information that is privileged or confidential, to discuss personnel matters, or to discuss legal matters affecting FirstNet, including pending or potential litigation. *See* 47 U.S.C. 1424(e)(2).

*Matters to Be Considered:* After a majority vote, the Board intends to close the Special Meeting to discuss subjects covered under 47 U.S.C. 1424(e)(2). No other matters are scheduled to be discussed. The agenda topics are subject to change.

*Time and Date:* The Special Meeting will be held on April 8, 2014, from 9:00 a.m. to 10:00 a.m. Eastern Time. The times and dates are subject to change. Please refer to NTIA's Web site at *http://www.ntia.doc.gov/category/firstnet* for the most up-to-date information.

*Other Information:* The teleconference for the Special Meeting is open to the public. On the date and time of the Special Meeting, members of the public may call toll-free 1 800–369–1868 and use passcode ''FirstNet'' to listen to the meeting. If you experience technical difficulty, please contact Corey Ray by telephone (202) 482–4809; or via email *Corey.Ray@firstnet.gov.* Public access will be limited to listen-only. Due to the limited number of ports, attendance via teleconference will be on a first-come, first-served basis.

*Records:* NTIA maintains records of all Board proceedings. Board minutes will be available at *http://www.ntia.doc.gov/category/firstnet.*

Dated: April 1, 2014.

**Kathy D. Smith,**

*Chief Counsel.*

[FR Doc. 2014–07558 Filed 4–3–14; 8:45 am]

**BILLING CODE 3510–60–P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Proposed Additions and Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed additions to and deletions from the Procurement List.

**SUMMARY:** The Committee is proposing to add products to the Procurement List

that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and delete products and a service previously furnished by such agencies.

Comments Must Be Received On Or Before: 5/5/2014.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia 22202–4149.

**FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT:** Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

### Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

**Products**

**Scissor/Shear, Titanium Blade**

*NSN:* 5110–00–NIB–0041—Straight handle, 8″
*NSN:* 5110–00–NIB–0042—Non-Stick, Straight handle, 8″
*NSN:* 5110–00–NIB–0043—Straight handle, 7″
*NSN:* 5110–00–NIB–0044—Bent handle, 8″
*NSN:* 5110–00–NIB–0067—Non-Stick, Bent handle, 8″
*NPA:* Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
*Contracting Activity:* GENERAL SERVICES ADMINISTRATION, TOOLS ACQUISITION DIVISION I, KANSAS CITY, MO
*Coverage:* A-List for the Total Government Requirement as aggregated by the General Services Administration.

**Sorbent, Hazardous Material, Granular, Biobased**

*NSN:* 4235–01–572–3902—4 LB
*NSN:* 4235–01–572–3892—20 LB
*NSN:* 4235–01–599–3952—40 LB
*NPA:* San Antonio Lighthouse for the Blind, San Antonio, TX
*Contracting Activity:* DEFENSE LOGISTICS AGENCY AVIATION, RICHMOND, VA
*Coverage:* B-List for the Broad Government Requirement as aggregated by the Defense Logistics Agency, Richmond, VA.

### Deletions

The following products and service are proposed for deletion from the Procurement List:

**Products**

**Portfolio, Report Cover, Clear Cover**

*NSN:* 7510–01–411–7000—Dark Blue, 8½″ x 11″
*NSN:* 7510–01–566–4140—Light Blue, 8½″ x 11″
*NSN:* 7510–01–566–4141—Black, 8½″ x 11″
*NSN:* 7510–01–566–4142—Red, 8½″ x 11″
*NSN:* 7510–01–566–5060—Dark Green, 8½″ x 11″
*NPA:* Vision Corps, Lancaster, PA
*Contracting Activity:* GENERAL SERVICES ADMINISTRATION, NEW YORK, NY

**Heavy Duty Aircraft Cleaner**

*NSN:* 7930–01–381–5794
*NPA:* Beacon Lighthouse, Inc., Wichita Falls, TX
*Contracting Activities:*
U.S. POSTAL SERVICE, WASHINGTON, DC
DEPARTMENT OF VETERANS AFFAIRS, NAC, HINES, IL
GENERAL SERVICES ADMINISTRATION, FORT WORTH, TX

**Folder, File**

*NSN:* 7530–00–985–7010
*NSN:* 7530–00–205–3613
*NPA:* Goodwill Industries of the Pioneer Valley, Inc., Springfield, MA
*Contracting Activity:* GENERAL SERVICES ADMINISTRATION, NEW YORK, NY

**Squeegee, Ergonomic Style Handle**

*NSN:* 7920–01–503–5368
*NSN:* 7920–01–503–5369
*NSN:* 7920–01–503–5370
*NSN:* 7920–01–503–5371
*NPA:* Industries for the Blind, Inc., West Allis, WI
*Contracting Activities:*
DEPARTMENT OF VETERANS AFFAIRS, NAC, HINES, IL
GENERAL SERVICES ADMINISTRATION, FORT WORTH, TX

**Service**

*Service Type/Location:* Switchboard Operation Service, Veterans Affairs Medical Center: Highway 6 West, 1400 E. Touhy Avenue, Iowa City, IA.
*NPA:* UNKNOWN
*Contracting Activity:* DEPARTMENT OF VETERANS AFFAIRS, NAC, HINES, IL.

**Barry S. Lineback,**

*Director, Business Operations.*

[FR Doc. 2014–07545 Filed 4–3–14; 8:45 am]

**BILLING CODE 6353–01–P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Additions and Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to and deletions from the Procurement List.

**SUMMARY:** This action adds products to the Procurement List that will be furnished by the nonprofit agency employing persons who are blind or have other severe disabilities, and deletes products and services from the Procurement List previously furnished by such agencies.

**DATES:** Effective Date: 5/5/2014.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia, 22202–4149.

**FOR FURTHER INFORMATION CONTACT:** Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

**SUPPLEMENTARY INFORMATION:**

### Additions

On 12/13/2013 (78 FR 75911–75912) and 1/10/2014 (79 FR 1835–1836), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

''The Committee For Purchase From People Who Are Blind or Severely Disabled (Committee), established by the Javits-Wagner-O'Day (JWOD) Act, administers the AbilityOne Program pursuant to statutory (41 U.S.C. 8501, *et seq.*) and regulatory (41 CFR Chapter 51) authority. Comments from the contractors indicate that each provides similar eyewear products to those that are the subject of the PL addition and, as service-disabled veteran-owned small businesses (SDVOSB), they should be given the opportunity to provide these products to the Department of Veteran Affairs (VA). The contractors assert that the failure to allow them to provide these products to VA will cause them severe adverse impact. The commenters also maintain that VA did not follow its established internal procedures to add items to the AbilityOne PL under VA's Veterans First Initiative as outlined in a VA Departmental Information Letter and that adding these products to the PL violates a decision by the U.S. Court of Federal Claims (Court).

The Committee fully supports and contributes to employment opportunities for veterans and Wounded

Warriors. The Committee recognizes that there are several statutory government contracting preference programs, including set-asides for SDVOSB concerns. The AbilityOne Program is also a statutory program that creates employment opportunities for people who are blind or severely disabled through the Federal procurement system. The Presidentially-appointed members of the Committee have a statutory responsibility to implement the JWOD Act and related government policy to increase employment opportunities for persons who are blind or severely disabled through the purchase of goods or services from qualified nonprofit agencies employing these individuals.

Before items are added to the PL and, in accordance with its regulations, the Committee must determine the suitability of products or services for procurement by the Government. In each instance, the Committee considers whether the addition is likely to have a severe adverse impact on the current contractor. In this case, none of the firms that submitted comments are the current contractor for the eyewear products at the locations being considered in this action; therefore, there is no severe adverse impact on the contractors for this particular PL addition.

The JWOD Act (41 U.S.C. 8503(a)) grants the Committee exclusive authority to establish, maintain and make changes to a procurement list of supplies and services provided by qualified nonprofit agencies for people who are blind or severely disabled. The Committee's authority is not constrained by internal processes and procedures of federal agencies regarding which supplies or services will be added to the PL.

The JWOD Act exists and continues to be implemented by the Committee, notwithstanding the VA's implementation of Public Law 109–461, the Veterans Benefits, Health Care, and Information Technology Act of 2006. Accordingly, the Committee concludes that it has the statutory responsibility to determine which items are suitable to be added to the PL and, therefore, disagrees that VA procedures or the Court decision cited by the firms precludes them from exercising the authority granted by the JWOD Act''.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and impact of the additions on the current or most recent contractors, the Committee has determined that the products listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

**Regulatory Flexibility Act Certification**

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organization that will furnish the products to the Government.

2. The action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products proposed for addition to the Procurement List.

**End of Certification**

Accordingly, the following products are added to the Procurement List:

Products:

*NSN:* 6650–00–NIB–0009—Flat Top 28, Bifocal, Single Vision, Plastic, Clear
*NSN:* 6650–00–NIB–0010—Flat Top 28, Bifocal, Plastic, Clear
*NSN:* 6650–00–NIB–0011—Flat Top 35, Bifocal, Clear
*NSN:* 6650–00–NIB–0012—Clear Plastic Round 25 and Round 28
*NSN:* 6650–00–NIB–0013—Flat Top 7 x 28, Plastic, Clear
*NSN:* 6650–00–NIB–0014—Flat Top 8 x 35, Plastic, Clear
*NSN:* 6650–00–NIB–0015—Progressives, (VIP, Adaptar, Freedom, Image), Plastic, Clear
*NSN:* 6650–00–NIB–0016—Lenticular Aspheric, Single Vision, Plastic, Clear
*NSN:* 6650–00–NIB–0017—Flat Top-Round Aspheric Lenticular, Plastic, Clear
*NSN:* 6650–00–NIB–0018—Executive Bifocal, Plastic, Clear
*NSN:* 6650–00–NIB–0019—Single Vision, Glass, Clear
*NSN:* 6650–00–NIB–0020—Flat Top 28, Bifocal, Glass, Clear
*NSN:* 6650–00–NIB–0021—Flat Top 35, Bifocal, Glass, Clear
*NSN:* 6650–00–NIB–0022—Flat Top 7 x 28, Trifocal, Glass, Clear
*NSN:* 6650–00–NIB–0023—Flat Top 8 x 35, Trifocal, Glass, Clear
*NSN:* 6650–00–NIB–0024—Progressives, (VIP, Adaptar, Freedom), Glass, Clear
*NSN:* 6650–00–NIB–0025—Executive Bifocal, Glass, Clear
*NSN:* 6650–00–NIB–0026—Single Vision, Polycarbonate, Clear
*NSN:* 6650–00–NIB–0027—Flat Top 28, Bifocal, Polycarbonate, Clear
*NSN:* 6650–00–NIB–0028—Flat Top 35, Bifocal, Polycarbonate, Clear
*NSN:* 6650–00–NIB–0029—Flat Top 7 x 28, Trifocal, Polycarbonate, Clear
*NSN:* 6650–00–NIB–0030—Flat Top 8 x 35, Trifocal, Polycarbonate, Clear
*NSN:* 6650–00–NIB–0031—Progressives (VIP, Adaptar, Freedom, Image), Polycarbonate
*NSN:* 6650–00–NIB–0032—Single Vision, Plastic, Clear
*NSN:* 6650–00–NIB–0033—Flat Top 28, Bifocal, Plastic, Clear
*NSN:* 6650–00–NIB–0034—Flat Top 35, Bifocal, Plastic, Clear
*NSN:* 6650–00–NIB–0035—Round 25 and 28, Bifocal, Plastic, Clear
*NSN:* 6650–00–NIB–0036—Flat Top 7 x 28, Trifocal, Plastic, Clear
*NSN:* 6650–00–NIB–0037—Flat Top 8 x 35, Trifocal, Plastic, Clear
*NSN:* 6650–00–NIB–0038—Progressives, Plastic, Clear
*NSN:* 6650–00–NIB–0039—SV, Aspheric, Lenticular, Plastic, Clear
*NSN:* 6650–00–NIB–0040—FT or round aspheric lenticular, Plastic, Clear
*NSN:* 6650–00–NIB–0041—Bifocal, Executive, Plastic, Clear
*NSN:* 6650–00–NIB–0042—Single Vision, Glass, Clear
*NSN:* 6650–00–NIB–0043—Flat Top 28, Bifocal, Glass, Clear
*NSN:* 6650–00–NIB–0044—Flat Top 35, Bifocal, Glass, Clear
*NSN:* 6650–00–NIB–0045—Flat Top 7 x 28, Trifocal, Glass, Clear
*NSN:* 6650–00–NIB–0046—Flat Top 8 x 35, Trifocal, Glass, Clear
*NSN:* 6650–00–NIB–0047—Progressives (VIP, Adaptar, Freedom), Glass, Clear
*NSN:* 6650–00–NIB–0048—Bifocal, Executive, Glass, Clear
*NSN:* 6650–00–NIB–0049—Single Vision, Polycarbonate, Clear
*NSN:* 6650–00–NIB–0050—Flat Top 28, Polycarbonate, Clear
*NSN:* 6650–00–NIB–0051—Flat Top 35, Bifocal, Polycarbonate, Clear
*NSN:* 6650–00–NIB–0052—Flat Top 7 x 28, Trifocal, Polycarbonate, Clear
*NSN:* 6650–00–NIB–0053—Flat Top 8 x 35, Trifocal, Polycarbonate, Clear
*NSN:* 6650–00–NIB–0054—Lenses, Progressives (VIP, Adaptar, Freedom, Image), Polycarbonate
*NSN:* 6650–00–NIB–0055—Transition, Plastic, CR–39
*NSN:* 6650–00–NIB–0056—Photochromatic/Transition, (Polycarbonate Material)
*NSN:* 6650–00–NIB–0057—Photogrey (glass only)
*NSN:* 6650–00–NIB–0058—High Index transition (CR 39)
*NSN:* 6650–00–NIB–0059—Anti-reflective Coating (CR 39 and polycarbonate)
*NSN:* 6650–00–NIB–0060—Ultraviolet Coating (CR 39)
*NSN:* 6650–00–NIB–0061—Polarized Lenses (CR 39)
*NSN:* 6650–00–NIB–0062—Slab-off (polycarbonate, CR 39: trifocal and bifocal
*NSN:* 6650–00–NIB–0063—High Index (CR–39)
*NSN:* 6650–00–NIB–0064—Prism (up to 6 diopters no charge) > 6 diopters/diopter
*NSN:* 6650–00–NIB–0065—Diopter + or—9.0 and above
*NSN:* 6650–00–NIB–0066—Lenses, oversize eye, greater than 58, excluding progressive.

*NSN:* 6650–00–NIB–0067—Hyper 3 drop SV, multifocal (CR 39)
*NSN:* 6650–00–NIB–0068—Add powers over 4.0
*NSN:* 6650–00–NIB–0069—Plastic or Metal
*Contracting Activity:* Department Of Veterans Affairs, 248-Network Contracting Office 8, Tampa, FL
*NPA:* Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
*Coverage:* C-List for 100% of the requirements of Bay Pines Healthcare System, Bay Pines, FL and the James A. Haley Veterans Hospital, Tampa, FL as aggregated by Network Contracting Office 8, Tampa, FL

**Deletions**

On 2/14/2014 (79 FR 8943–8944), 2/21/2014 (79 FR 9893–9894), and 2/28/2014 (79 FR 11422–11423), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products and services listed below are no longer suitable for procurement by the Federal Government under 41 USC 8501–8506 and 41 CFR 51–2.4.

**Regulatory Flexibility Act Certification**

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products and services deleted from the Procurement List.

**End of Certification**

Accordingly, the following products and services are deleted from the Procurement List:

*Products*

Bag, Plastic

*NSN:* 8105–LL–N77–1370
*NSN:* 8105–LL–N78–1252
*NSN:* 8105–LL–N86–0770
*NSN:* 8105–LL–N86–0771
*NSN:* 8105–LL–N89–0073
*NSN:* 8105–LL–N89–0075
*NSN:* 8105–LL–N91–2391
*NSN:* 8105–LL–N91–2392
*NSN:* 8105–LL–N91–2393
*NSN:* 8105–LL–N91–2394
*NPA:* UNKNOWN
*Contracting Activity:* Dept. of the Navy, US Fleet Forces Command, Norfolk, VA

*Services*

*Service Type/Locations:*
Grounds Maintenance Service, U.S. Army Reserve Center: Mifflin County, 73 Reserve Lane, Lewiston, PA.
Sgt. Paul Beck AFRC, 987 East Bishop St., Bellefonte, PA.
U.S. Army Reserve Center, Centre County, 1250 Fox Hollow Rd., State College, PA.
U.S. Army Reserve Center: Buildings 1 and 5, 2997 North Second Street, Harrisburg, PA.
U.S. Army Reserve Center: Lenkalis, 250 Washington Avenue, West Hazelton, PA.
*Service Type/Location:* Janitorial/Custodial Service, U.S. Army Reserve Center, 1545 Airport Road, Franklin, PA.
*NPA:* Unknown.
*Contracting Activity:* Dept. Of The Army, W40m Natl Region Contract Ofc, Fort Belvoir, VA.

**Barry S. Lineback,**

*Director, Business Operations.*

[FR Doc. 2014–07544 Filed 4–3–14; 8:45 am]

**BILLING CODE 6353–01–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Response Systems to Adult Sexual Assault Crimes Panel; Notice of Federal Advisory Committee Meeting

**AGENCY:** Department of Defense.

**ACTION:** Notice of meeting.

**SUMMARY:** The Department of Defense is publishing this notice to announce the following Federal Advisory Committee meeting of the Response Systems to Adult Sexual Assault Crimes Panel.

**DATES:** A meeting of the Response Systems to Adult Sexual Assault Crimes Panel (''the Panel'') will be held May 5–6, 2014 from 8:30 a.m. to 5:00 p.m. each day.

**ADDRESSES:** The George Washington University Law School Faculty Conference Center, 5th floor, 716 20th Street NW., Washington, DC 20052.

**FOR FURTHER INFORMATION CONTACT:** Ms. Terri Saunders, Response Systems Panel, One Liberty Center, 875 N. Randolph Street, Suite 150, Arlington, VA 22203. Email: *Terri.a.saunders.civ@mail.mil.* Phone: (703) 693–3829. Web site: *http://responsesystemspanel.whs.mil.*

**SUPPLEMENTARY INFORMATION:** This public meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

*Purpose of the Meeting:* At this meeting, the Panel will deliberate on the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239), Section 576(a)(1) requirement to conduct an independent review and assessment of the systems used to investigate, prosecute, and adjudicate crimes involving adult sexual assault and related offenses under 10 U.S.C. 920 (article 120 of the Uniform Code of Military Justice), for the purpose of developing recommendations regarding how to improve the effectiveness of such systems. The Panel is interested in written and oral comments from the public, including non-governmental organizations, relevant to this tasking.

**Agenda**

*May 5, 2014*

- 8:30 a.m.–8:35 a.m. Comments from the Panel Chair
- 8:35 a.m.–9:30 a.m. DoD SAPRO Update
  *Major General Jeffrey J. Snow Director, DoD SAPRO*
- 9:30 a.m.–12:30 p.m. Subcommittee Report to Panel and Panel Deliberations
- 12:30 p.m.–1:00 p.m. Lunch
- 1:00 p.m.–4:30 p.m. Subcommittee Report to Panel and Panel Deliberations
- 4:30 p.m.–5:00 p.m. Public Comment

*May 6, 2014*

- 8:30 a.m.–12:00 p.m. Subcommittee Report to Panel and Panel Deliberations
- 12:00 p.m.–12:30 p.m. Lunch
- 12:30 p.m.–4:30 p.m. Panel Deliberations
- 4:30 p.m.–5:00 p.m. Public Comment*

* Public comment may occur earlier in the day if Panel deliberations conclude prior to 4:30 p.m.

It is anticipated that the subcommittees will report to the Panel in the following order: Comparative Systems Subcommittee; Victim Services Subcommittee; Role of the Commander Subcommittee. However, the order of the subcommittee reports may change.

*Availability of Materials for the Meeting:* A copy of the agenda or any updates to the agenda for the May 5–6, 2014 meeting, as well as other materials presented in the meeting, may be obtained at the meeting or from the Panel's Web site at: *http://responsesystemspanel.whs.mil.*

*Public's Accessibility to the Meeting:* Pursuant to 5 U.S.C. 552b and 41 CFR

102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is limited and is on a first-come basis.

*Special Accommodations:* Individuals requiring special accommodations to access the public meeting should contact Ms. Terri Saunders at *Terri.a.saunders.civ@mail.mil* at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

*Procedures for Providing Public Comments:* Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Panel about its mission and topics pertaining to this public session. Written comments must be received by Ms. Terri Saunders at least five (5) business days prior to the meeting date so that they may be made available to the Panel for their consideration prior to the meeting. Written comments should be submitted via email to the address for Ms. Terri Saunders given in this notice in the following formats: Adobe Acrobat or Microsoft Word. Please note that since the Panel operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection. If members of the public are interested in making an oral statement, a written statement must be submitted along with a request to provide an oral statement. Oral presentations by members of the public will be permitted between 4:30 p.m. and 5:00 p.m. May 5 and 6, 2014 in front of the Panel. The number of oral presentations to be made will depend on the number of requests received from members of the public on a first-come basis. After reviewing the requests for oral presentation, the Chairperson and the Designated Federal Officer will, having determined the statement to be relevant to the Panel's mission, allot five minutes to persons desiring to make an oral presentation.

*Committee's Designated Federal Officer:* The Board's Designated Federal Officer is Ms. Maria Fried, Response Systems to Adult Sexual Assault Crimes Panel, 1600 Defense Pentagon, Room 3B747, Washington, DC 20301–1600.

Dated: March 31, 2014.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2014–07504 Filed 4–3–14; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF ENERGY

**[OE Docket No. EA–260–E]**

## Application To Export Electric Energy; CP Energy Marketing (US) Inc.

**AGENCY:** Office of Electricity Delivery and Energy Reliability, DOE.

**ACTION:** Notice of Application.

**SUMMARY:** CP Energy Marketing (US) Inc. (CP Energy Marketing) has applied to renew its authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

**DATES:** Comments, protests, or motions to intervene must be submitted on or before May 5, 2014.

**ADDRESSES:** Comments, protests, or motions to intervene should be addressed to: Lamont Jackson, Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Lamont.Jackson@hq.doe.gov,* or by facsimile to 202–586–8008.

**FOR FURTHER INFORMATION CONTACT:** Lamont Jackson (Program Office) at 202–586–0808, or by email to *Lamont.Jackson@hq.doe.gov.*

**SUPPLEMENTARY INFORMATION:** Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On April 8, 2009, DOE issued Order No. EA–260–C to EPCOR Energy Marketing (US) Inc., which authorized EPCOR to transmit electric energy from the United States to Canada as a power marketer for a five-year term using existing international transmission facilities. That authority expires on April 8, 2014. On December 18, 2009, DOE issued Order No. EA–260–D changing EPCOR's name to CP Energy Marketing (US) Inc. and all other terms and conditions of Order EA–260–C remain unchanged. On March 26, 2014, CP Energy Marketing filed an application with DOE for renewal of the export authority contained in Order No. EA–260–D for an additional five-year term. CP Energy Marketing is also requesting a short-term extension of the April 8, 2014 expiration date so that its current authorization will remain in effect until the date DOE acts on this application.

In its application, CP Energy Marketing states that it does not own any electric generating or transmission facilities, and it does not have a franchised service area. The electric energy that CP Energy Marketing proposes to export to Canada would be surplus energy purchased from electric utilities, Federal power marketing agencies, and other entities within the United States and/or Canada. The existing international transmission facilities to be utilized by CP Energy Marketing have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

*Procedural Matters:* Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments on the CP Energy Marketing application to export electric energy to Canada should be clearly marked with OE Docket No. EA–260–E. An additional copy is to be provided directly to Darlene Cooper, Capital Power Corporation, 401—9th Avenue SW., Suite 1200, Calgary, AB Canada T2P 3C5 and Lisa Tucker, Esq., K&L Gates LLP, 1601 K Street NW., Washington, DC 20006.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Issued in Washington, DC, on April 1, 2014.

**Brian Mills,**

*Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.*

[FR Doc. 2014–07591 Filed 4–3–14; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Update on Reimbursement for Costs of Remedial Action at Uranium and Thorium Processing Sites

**AGENCY:** Department of Energy.

**ACTION:** Notice of the Title X claims during fiscal year (FY) 2014.

**SUMMARY:** In light of the passage of the Consolidated Appropriations Act, 2014 (Pub. L. 113–76), funds were not made available in FY 2014 to the Department of Energy (DOE) for reimbursement for cleanup work performed by licensees at eligible uranium and thorium processing sites in accordance with Title X of the Energy Policy Act of 1992 (Pub. L. 102–486). However, licensees may submit their claims for cleanup work with the understanding that DOE may be able to perform audits/financial review on the claims but cannot provide licensees with reimbursements. If licensees do not submit claims in FY 2014, they can do so the following year. In order to keep an accurate account of claims, DOE will continue to provide an annual status report or report letter on reimbursements to licensees of eligible uranium and thorium processing sites. If licensees submit claims in FY 2014, those licensees are not required to resubmit those same claims in later years.

**DATES:** If claims are submitted during FY 2014 for cleanup work, the closing date is September 30, 2014.

**ADDRESSES:** Claims should be forwarded by certified or registered mail, return receipt requested, to U.S. Department of Energy, Office of Legacy Management, Attn: David Shafer, Title X Coordinator, 2597 Legacy Way, Grand Junction, Colorado 81503. Two copies of the claim should be included with each submission.

**FOR FURTHER INFORMATION CONTACT:** Contact Theresa Kliczewski at (202) 586–3301 of the U.S. Department of Energy, Office of Environmental Management, Office of Disposition Planning & Policy.

**SUPPLEMENTARY INFORMATION:** DOE published a final rule under 10 CFR part 765 in the **Federal Register** on May 23, 1994, (59 FR 26714) to carry out the requirements of Title X of the Energy Policy Act of 1992 (sections 1001–1004 of Public Law 102–486, 42 U.S.C. 2296a *et seq.*) and to establish the procedures for eligible licensees to submit claims for reimbursement. DOE amended the final rule on June 3, 2003, (68 FR 32955) to adopt several technical and administrative amendments (e.g., statutory increases in the reimbursement ceilings). Title X requires DOE to reimburse eligible uranium and thorium licensees for certain costs of decontamination, decommissioning, reclamation, and other remedial action incurred by licensees at uranium and thorium processing sites to remediate byproduct material generated as an incident of sales to the United States Government. To be reimbursable, costs of remedial action must be for work which is necessary to comply with applicable requirements of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 *et seq.*) or, where appropriate, with requirements established by a State pursuant to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021). Claims for reimbursement must be supported by reasonable documentation as determined by DOE in accordance with 10 CFR part 765. Funds for reimbursement will be provided from the Uranium Enrichment Decontamination and Decommissioning Fund established at the Department of Treasury pursuant to section 1801 of the Atomic Energy Act of 1954 (42 U.S.C. 2297g). Payment or obligation of funds shall be subject to the requirements of the Anti-Deficiency Act (31 U.S.C. 1341).

**Authority:** Section 1001–1004 of Public Law 102–486, 106 Stat. 2776 (42 U.S.C. 2296a *et seq.*).

Issued in Washington, DC, on March 28, 2014.

**Mark Senderling,**

*Director, Office of Disposition Planning & Policy, Office of Environmental Management.*

[FR Doc. 2014–07571 Filed 4–3–14; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP14–123–000]**

### Questar Overthrust Pipeline Company; Notice of Application

Take notice that on March 26, 2014, Questar Overthrust Pipeline Company (Overthrust), 333 South State Street, Salt Lake City, Utah 84111, filed an application in the above referenced docket pursuant to section 7(c) of the Natural Gas Act (NGA) requesting authorization to construct and operate its Jurisdictional Tap Line (JTL) 139 Delivery Project to provide 20,000 dekatherms per day (Dth/day) of natural gas to Simplot Phosphates, LLC's new ammonia plant located in Sweetwater County, Wyoming, with the capability of increasing up to 60,000 Dth/day. Overthrust states that the JTL 139 Delivery Project will include approximately 2.5 miles of 8-inch diameter delivery lateral, a district regulator station, and associated appurtenances. Overthrust estimates the Project to be $4.4 million, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application may be directed to L. Bradley Burton, General Manager Federal Regulatory Affairs and FERC Compliance Officer, Questar Pipeline Company, 333 South State Street, PO Box 45360, Salt Lake City, Utah 84145–0360, by telephone at (801) 324–2459, or by email at *brad.burton@questar.com.*

Pursuant to section 157.9 of the Commission's rules (18 CFR 157.9), within 90 days of this Notice, the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to

obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and seven copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

*Comment Date:* 5:00 p.m. Eastern Time on April 21, 2014.

Dated: March 31, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–07533 Filed 4–3–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 2528–084]**

### Brookfield White Pine Hydro LLC; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Types of Application:* Temporary drawdown of impoundment.

b. *Project No.:* 2528–084.

c. *Date Filed:* February 6, 2014.

d. *Applicants:* Brookfield White Pine Hydro LLC.

e. *Name of Project:* Cataract Project.

f. *Location:* Saco River Basin in the City of Biddeford, York County, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Kevin Bernier, Manager Compliance, Brookfield Renewable Energy Group, US Operations, 26 Katherine Drive, Hallowell, ME 04347 (207) 629–1800.

i. *FERC Contact:* Mr. Joseph Enrico, (212) 273–5917, *joseph.enrico@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests, is 30 days from the issuance date of this notice by the Commission. All documents may be filed electronically via the Internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. Please include the project number (P–2528–084) on any comments, motions, or recommendations filed.

k. *Description of Request:* The applicant proposes to conduct a radio telemetry fish passage study at the Springs and Bradbury dams to determine if a change in operations of the flow control gates would improve American shad passage at the Springs Island dam. Accordingly, the study will result in lowering the impoundment by four-feet for a two-week period in June 2014.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field (P–2528) to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish

the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the application. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: March 26, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–07498 Filed 4–3–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 2179–045]**

### Merced Irrigation District; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Application for Temporary Variance of License Requirements.

b. *Project No.:* 2179–045.

c. *Date filed:* March 27, 2014.

d. *Applicant:* Merced Irrigation District (Licensee).

e. *Name of Project:* Merced River Hydroelectric Project.

f. *Location:* The existing project is located on the Merced River in Merced and Mariposa counties, California.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. John Sweigard, Merced Irrigation District, P.O. Box 2288, Merced, CA 95344; Telephone (209) 722–5761.

i. *FERC Contact:* Mr. John Aedo, (202) 502–3335 or *john.aedo@ferc.gov.*

j. Deadline for filing comments, motions to intervene, protests, and recommendations is 15 days from the date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, and recommendations using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2179–045.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The licensee requests an emergency, temporary variance of the minimum flow and storage requirements under articles 40 and 44 of the license for the Merced River Hydroelectric Project. The licensee is proposing this emergency request due to the severe drought in the State of California. The licensee requests that during March and April 2014, its compliance obligation at Shaffer Bridge be 60 cubic feet per second (cfs) daily average flow, rather than 60 cfs instantaneous flow. To ensure minimum flows in the river, the licensee proposes an instantaneous flow of not less than 40 cfs at Shaffer Bridge during this two month period. The licensee also requests that its minimum storage requirement in Lake McClure be reduced from 115,000 acre-feet (AF) to no less than 85,000 AF for 2014. The licensee estimates that with the approval of the proposed temporary amendment requests, it may be able to extend its irrigation season at least two weeks plus improve fishery conditions over a longer term.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208- 3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license surrender. Agencies may obtain copies of the application directly from the

applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: March 28, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–07497 Filed 4–3–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Project No. 13757–002; Project No. 13761–002; Project No. 13768–002]**

## FFP Missouri 5, LLC, FFP Missouri 6, LLC, Solia 6 Hydroelectric, LLC; Notice of Applications Tendered for Filing With the Commission and Soliciting Additional Study Requests

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection.

a. *Type of Applications:* Original Major Licenses.

b. *Project Nos.:* 13757–002; 13761–002; 13768–002.

c. *Dates Filed:* March 14, 2014.

d. *Applicants:* FFP Missouri 5, LLC; FFP Missouri 6, LLC; Solia 6 Hydroelectric, LLC. All applicants are subsidiaries of Free Flow Power Corporation.

e. *Names of Projects:* Emsworth Locks and Dam Hydroelectric Project, 13757–002; Emsworth Back Channel Hydroelectric Project, 13761–002; Montgomery Locks and Dam Hydroelectric Project, 13768–002.

f. *Locations:* The proposed projects would be located at U.S. Army Corps of Engineers' (Corps) dams on the Ohio River in Allegheny and Beaver counties, Pennsylvania (see table below for specific locations). The projects would occupy 23.5 acres of federal land managed by the Corps.

| Project No. | Projects | County and State | City/town |
|---|---|---|---|
| P–13757 | Emsworth Locks and Dam | Allegheny, PA | Emsworth. |
| P–13761 | Emsworth Back Channel Dam | Allegheny, PA | Emsworth. |
| P–13768 | Montgomery Locks & Dam | Beaver, PA | Borough of Industry. |

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Thomas Feldman, Vice President, Free Flow Power Corporation, 239 Causeway Street, Suite 300, Boston, MA 02114; or at (978) 283–2822.

Ramya Swaminathan, Chief Operating Officer, Free Flow Power Corporation, 239 Causeway Street, Suite 300, Boston, MA 02114; or at (978) 238–2822.

Daniel Lissner, General Counsel, Free Flow Power Corporation, 239 Causeway Street, Suite 300, Boston, MA 02114; or at (978) 283–2822.

i. *FERC Contact:* Brandi Sangunett, (202) 502–8393 or *brandi.sangunett@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* May 13, 2014.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include the docket number(s) for the project(s) (e.g., P–13757–002).

m. The applications are not ready for environmental analysis at this time.

n. The proposed Emsworth Locks and Dam Hydroelectric Project would be the most upstream project at river mile (RM) 6.2 and would consist of the following new facilities: (1) A 205-foot-long, 180-foot-wide intake channel containing a 30-foot-long, 63.5-foot-high, 180-foot-wide intake structure with 5-inch bar spacing trashracks; (2) a 180-foot-long, 77-foot-high, 180-foot-wide reinforced concrete powerhouse on the south bank of the river; (3) four turbine-generator units with a combined capacity of 24 megawatts (MW); (4) a 380-foot-long, 280-foot-wide tailrace; (5) a 50-foot-long by 60-foot-wide substation; (6) a 1,893-foot-long, 69-kilovolt (kV), overhead transmission line to connect the project substation to an existing substation; and (7) appurtenant facilities. The average annual generation would be 101,300 megawatt-hours (MWh).

The proposed Emsworth Back Channel Dam Hydroelectric Project would be located at RM 6.8 and consist of the following new facilities: (1) A 100-foot-long, 165-foot-wide intake channel containing a 32-foot-long, 63.5-foot-high, 90-foot-wide intake structure with 5-inch bar spacing trashracks; (2) a 150-foot-long, 77-foot-high, 90-foot-wide reinforced concrete powerhouse on the north bank of the river; (3) two turbine-generator units with a combined capacity of 12.0 MW; (4) a 190-foot-long, 105-foot-wide tailrace; (5) a 50-foot-long by 60-foot-wide substation; (6) a 3,758-foot-long, 69-kV, overhead transmission line to connect the project substation to an existing substation; and (7) appurtenant facilities. The average annual generation would be 53,500 MWh.

The proposed Montgomery Locks and Dam Hydroelectric Project would be located at RM 31.7 and consist of the following new facilities: (1) A 340-foot-long, 205-foot-wide intake channel containing a 150-foot-long, 90-foot-high, 205-foot-wide intake structure with 5-inch bar spacing trashracks; (2) a 315-foot-long, 105-foot-high, 205-foot-wide reinforced concrete powerhouse on the north bank of the river; (3) three turbine-generator units with a combined capacity of 42 MW; (4) a 280-foot-long, 210-foot-wide tailrace; (5) a 50-foot-long by 60-foot-wide substation; (6) a 392-foot-long, 69-kV, overhead transmission line to connect the project substation to an existing distribution line; and (7) appurtenant facilities. The average annual generation would be 194,370 MWh.

Free Flow Power proposes to operate all three projects in a ''run-of-river'' mode using flows made available by the Corps. The proposed projects would not change existing flow releases or water surface elevations upstream or downstream of the proposed projects.

o. *Location of the Applications:* A copy of each application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. Copies are also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural schedule:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

| Milestone | Date |
|---|---|
| Issue Notice of Acceptance | April 2014. |
| Issue Scoping Document 1 for Comments. | May 2014. |
| Hold Scoping Meeting ..... | June 2014. |
| Comments Due on Scoping Document 1. | July 2014. |
| Issue Scoping Document 2 | August 2014. |
| Issue Notice of Ready for Environmental Analysis. | August 2014. |
| Commission Issues EA ..... | February 2015. |

Dated: March 27, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–07499 Filed 4–3–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–2847–001*; ER10–2818–001; ER10–2806–001; ER10–1948–003.*

*Applicants:* TransAlta Centralia Generation LLC, TransAlta Energy Marketing Corporation, TransAlta Energy Marketing (U.S.) Inc., FPL Energy Wyoming, LLC.

*Description:* Supplement to December 31, 2013 Triennial Market Power Analysis in Northwest Region and Notice of Change in Status of the Transalta MBR Entities.

*Filed Date:* 3/27/14.

*Accession Number:* 20140327–5192.

*Comments Due:* 5 p.m. ET 4/17/14.

*Docket Numbers:* ER14–1001–001.

*Applicants:* Southern California Edison Company.

*Description:* Revised LGIA and Distrib Service Agmt with Coram California Development, L.P. to be effective 12/15/2013.

*Filed Date:* 3/28/14.

*Accession Number:* 20140328–5005.

*Comments Due:* 5 p.m. ET 4/18/14.

*Docket Numbers:* ER14–1343–001.

*Applicants:* Bargain Energy, LLC.

*Description:* Bargain Energy MBR Supplement—Clone to be effective 4/1/2014.

*Filed Date:* 3/28/14.

*Accession Number:* 20140328–5000.

*Comments Due:* 5 p.m. ET 4/18/14.

*Docket Numbers:* ER13–1487–002.

*Applicants:* Quantum Auburndale Power, LP.

*Description:* Quantum Auburndale Power, LP Revised Electric Tariff Filing to be effective 3/29/2014.

*Filed Date:* 3/28/14.

*Accession Number:* 20140328–5071.

*Comments Due:* 5 p.m. ET 4/18/14.

*Docket Numbers:* ER13–1487–003; *ER13–1489–002; ER13–1488–001.*

*Applicants:* Quantum Auburndale Power, LP, Quantum Lake Power, LP, Quantum Pasco Power, LP.

*Description:* Notification of Non-Material Change in Status of the Quantum Entities.

*Filed Date:* 3/26/14.

*Accession Number:* 20140326–5183.

*Comments Due:* 5 p.m. ET 4/16/14.

*Docket Numbers:* ER13–1489–003.

*Applicants:* Quantum Lake Power, LP.

*Description:* Notification of Non-Material Change in Status of Quantum Lake Power, LP.

*Filed Date:* 3/26/14.

*Accession Number:* 20140326–5184.

*Comments Due:* 5 p.m. ET 4/16/14.

*Docket Numbers:* ER14–1603–000.

*Applicants:* CCES LLC.

*Description:* CCES Notice of Cancellation—Clone to be effective 3/28/2014.

*Filed Date:* 3/27/14.

*Accession Number:* 20140327–5174.

*Comments Due:* 5 p.m. ET 4/17/14.

*Docket Numbers:* ER14–1604–000.

*Applicants:* Southern California Edison Company.

*Description:* 2014 TACBAA Update to be effective 6/1/2014.

*Filed Date:* 3/28/14.

*Accession Number:* 20140328–5002.

*Comments Due:* 5 p.m. ET 4/18/14.

*Docket Numbers:* ER14–1605–000.

*Applicants:* Nevada Power Company.

*Description:* Notice of Termination of Dynamic Scheduling Agreement of Nevada Power Company.

*Filed Date:* 3/27/14.

*Accession Number:* 20140327–5190.

*Comments Due:* 5 p.m. ET 4/17/14.

*Docket Numbers:* ER14–1606–000.

*Applicants:* Cosima Energy, LLC.

*Description:* Cosima Energy MBR Tariff Filing to be effective 5/1/2014.

*Filed Date:* 3/28/14.

*Accession Number:* 20140328–5098.

*Comments Due:* 5 p.m. ET 4/18/14.

*Docket Numbers:* ER14–1607–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* Queue W1–072A_AT5; Original SA No. 3796 & Cancellation of SA No. 3380 to be effective 2/26/2014.

*Filed Date:* 3/28/14.

*Accession Number:* 20140328–5145.

*Comments Due:* 5 p.m. ET 4/18/14.

*Docket Numbers:* ER14–1608–000.

*Applicants:* Public Service Electric and Gas Company, PJM Interconnection, L.L.C.

*Description:* PSE&G submits revisions to OATTAtt H–10A re BLC Project to be effective 5/28/2014.

*Filed Date:* 3/28/14.

*Accession Number:* 20140328–5168.

*Comments Due:* 5 p.m. ET 4/18/14.

Take notice that the Commission received the following public utility holding company filings:

*Docket Numbers:* PH14–8–000.

*Applicants:* Sycamore Gas, Inc.

*Description:* Sycamore Gas, Inc. submits FERC 65–A Exemption Notification.

*Filed Date:* 3/27/14.
*Accession Number:* 20140327–5198.
*Comments Due:* 5 p.m. ET 4/17/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 28, 2014.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–07538 Filed 4–3–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL13–62–000]**

### Independent Power Producers of New York, Inc. v. New York Independent System Operator, Inc.; Notice of Amendment to Complaint

Take notice that on March 25, 2014, Independent Power Producers of New York, Inc. (IPPNY or Complainant) filed an amendment to its May 10, 2013, Complaint against New York Independent System Operator, Inc. (NYISO or Respondent).

IPPNY certifies that copies of the complaint were served on the contacts of NYISO as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on April 14, 2014.

Dated: March 28, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–07496 Filed 4–3–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP14–87–000]**

### Southeast Supply Header, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed SESH Expansion Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the SESH Expansion Project involving construction and operation of facilities by Southeast Supply Header, LLC (SESH) in Copiah County, Mississippi. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Please note that the scoping period will close on April 28, 2014.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

SESH provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*www.ferc.gov*).

**Summary of the Proposed Project**

SESH requests approval to construct and operate a new compressor station, associated connecting piping, and appurtenant facilities in Copiah County, Mississippi. The SESH Expansion Project would create about 25,000 dekatherms per day (Dth/d) of new capacity on the SESH mainline as well as change the mainline design to reflect a total 45,000 Dth/d increase in capacity.

The SESH Expansion Project would consist of the following facilities:

- New compressor facilities (the ''Dentville Compressor Station'') at the SESH/Texas Eastern Transmission, LP Interconnect, which include a single 8,000 horsepower natural gas-fired reciprocating engine compressor package;
- approximately 4,000 feet of new 20-inch-diameter connecting piping and related appurtenances from the proposed Dentville Compressor Station site to an existing metering and regulating (M&R) station on the SESH mainline at milepost 73.05 and south-southwest of the Dentville Compressor Station site; and

• modifications at the existing M&R station to accommodate the proposed connecting piping tie-in as well as install a launcher and receiver facility.

The general location of the project facilities is shown in appendix 1.[1]

**Land Requirements for Construction**

Construction of the proposed facilities would disturb about 32.4 acres of land for the aboveground facilities and the pipeline. Following construction, SESH would maintain about 23.5 acres for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses.

**The EA Process**

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [2] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- land use, recreation, and aesthetics;
- water resources and wetlands;
- cultural resources;
- vegetation, fisheries, and wildlife;
- air quality and noise;
- endangered and threatened species; and
- public safety.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section below.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

**Public Participation**

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before April 28, 2014.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the project docket number (CP14–87–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*.

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings*. This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings*. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister*.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

**Environmental Mailing List**

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

**Becoming an Intervenor**

In addition to involvement in the EA scoping process, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site.

**Additional Information**

Additional information about the project is available from the Commission's Office of External Affairs,

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (i.e., CP14–87). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/esubscribenow.htm*.

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: March 28, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–07502 Filed 4–3–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 12790–002–CT]**

### Andrew Peklo III; Notice of Availability of Final Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for an original license for the Pomperaug Hydro Project, to be located on the Pomperaug River, in the town of Woodbury, Litchfield County, Connecticut, and has prepared a final Environmental Assessment (EA).

The final EA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the final EA is on file with the Commission and is available for public inspection. The final EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information, contact Steve Kartalia at (202) 502–6131 or *Stephen.Kartalia@ferc.gov*.

Dated: March 28, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–07501 Filed 4–3–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket Nos. CP13–73–000; CP13–74–000]**

### Sierrita Gas Pipeline LLC; Notice of Availability of the Final Environmental Impact Statement for the Proposed Sierrita Pipeline Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a final environmental impact statement (EIS) for the Sierrita Pipeline Project, proposed by Sierrita Gas Pipeline LLC (Sierrita) in the above-referenced dockets. Sierrita requests authorization to link El Paso Natural Gas Company's existing South Mainline System near Tucson to an interconnect with the Sásabe-Guaymas Pipeline at the U.S.-Mexico border near the town of Sasabe, Arizona, that would provide up to 200,846 dekatherms per day of natural gas to markets in Mexico.

The final EIS assesses the potential environmental effects of the construction and operation of the Sierrita Pipeline Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project, with the mitigation measures recommended in the EIS, would have some adverse environmental impact; however, most of these impacts would be reduced to less-than-significant levels.

The U.S. Fish and Wildlife Service (FWS)—Arizona Ecological Services Office; the FWS—Buenos Aires National Wildlife Refuge; the Arizona Game and Fish Department; and the U.S. Customs and Border Protection participated as cooperating agencies in the preparation of the EIS. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis. Although the cooperating agencies provided input to the conclusions and recommendations presented in the final EIS, the agencies will present their own conclusions and recommendations in their respective Records of Decision for the project.

The final EIS addresses the potential environmental effects of the construction and operation of the following project facilities:

- 60.9 miles of 36-inch-diameter natural gas pipeline in Pima County, Arizona;
- two meter stations;
- two pig launchers and two pig receivers [1]; and
- six mainline valves.

The FERC staff mailed copies of the EIS to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; newspapers and libraries in the project area; and parties to this proceeding. Paper copy versions of the EIS were mailed to those specifically requesting them; all others received a CD version. In addition, the EIS is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field (i.e., CP13–73 or CP13–74). Be sure you have selected

[1] A pig is an internal tool that can be used to clean and dry a pipeline and/or to inspect it for damage or corrosion.

an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676; for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/esubscribenow.htm.*

Dated: March 28, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–07494 Filed 4–3–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 13817–001]**

### EBD Hydro Apple Inc.; Notice of Transfer of Exemption

1. By letter filed on December 9, 2013 and supplemented on December 27, 2013, EBD Hydro informed the Commission that the exemption from licensing for the 45-Mile Hydroelectric Project, FERC No. 13817, originally issued December 17, 2010,[1] has been transferred to Apple Inc. The project will be located at the concrete drop structure of the North Unit Irrigation District's main irrigation canal in Jefferson County, Oregon. The transfer of an exemption does not require Commission approval.

2. Apple Inc. is now the exemptee of the 45-Mile Hydroelectric Project, FERC No. 13817. All correspondence should be forwarded to: Apple Inc., Attn: Real Estate Counsel, 1 Infinite Loop, MS: 4D–LAW, Cupertino, CA 95014.

Dated: March 31, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–07535 Filed 4–3–14; 8:45 am]

**BILLING CODE 6717–01–P**

[1] 133 FERC ¶ 62,268, Order Granting Exemption From Licensing (Conduit).

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER14–1606–000]**

### Cosima Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Cosima Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is April 21, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 31, 2014.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–07539 Filed 4–3–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. AD14–8–000]**

### Winter 2013–2014 Operations and Market Performance in Regional Transmission Organizations and Independent System Operators; Supplemental Notice of Technical Conference

As announced in the Notice issued on February 21, 2014, and the Supplemental Notice issued on March 19, 2014 (March 19 Notice), the Federal Energy Regulatory Commission (Commission) will hold a Commissioner-led technical conference on Tuesday, April 1, 2014, from 9:00 a.m. to approximately 5:15 p.m. to discuss the impacts of recent cold weather events on the Regional Transmission Organizations/Independent System Operators (RTOs/ISOs), and discuss actions taken to respond during those occurrences. The conference will be held at the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. This conference is free of charge and open to the public. Commission members will participate in the conference. Following the conference, the Commission will take written public comments until May 15, 2014.

While this conference is not for the purpose of discussing specific cases, the March 19 Notice noted that discussions at the technical conference may address matters at issue in a number of Commission proceedings that are either pending or within their rehearing period and included a list of those proceedings. The following additional Commission proceedings may also involve issues that could be addressed at the technical conference: Posting of Offers to Purchase Capacity, Docket No. RP14–442; California Independent System Operator Corporation, Docket No. EL14–22; ISO New England Inc., Docket No. EL14–23; PJM Interconnection, LLC, Docket No. EL14–24; Midcontinent Independent System Operator, Inc., Docket No. EL14–25; New York Independent System Operator, Inc.,

Docket No. EL14–26; Southwest Power Pool, Inc., Docket No. EL14–27; ISO New England Inc., Docket No. ER13–2266; and ISO New England Inc. and New England Power Pool, Docket Nos. ER13–1877 and ER14–1050.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 502–8659 (TTY), or send a fax to (202) 208–2106 with the requested accommodations.

For more information about the technical conference, please contact:

Jordan Kwok (Technical Information), Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6161, *Jordan.Kwok@ferc.gov.*

Sarah McKinley (Logistical Information), Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8368, *Sarah.McKinley@ferc.gov.*

Dated: March 31, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–07532 Filed 4–3–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. AD10–12–005]**

### Increasing Market and Planning Efficiency Through Improved Software; Notice of Technical Conference Increasing Real-Time and Day-Ahead Market Efficiency Through Improved Software

Take notice that Commission staff will convene a technical conference on June 23, 24, and 25, 2014 to discuss opportunities for increasing real-time and day-ahead market efficiency through improved software. A detailed agenda with the list of and times for the selected speakers will be published on the Commission's Web site [1] after May 7, 2014.

This conference will bring together experts from diverse backgrounds and experiences, including electric system operators, software developers, government, research centers, and academia for the purposes of stimulating discussion, sharing information, and identifying fruitful avenues for research concerning the technical aspects of improved software for increasing efficiency. This conference is intended to build on the discussions initiated in the previous Commission staff technical conferences on increasing market and planning efficiency through improved software. As such, staff will be facilitating a discussion to explore research and steps needed to implement approaches to market modeling which appear to have significant promise for potential efficiency improvements in the following areas: Stochastic modeling; optimal transmission switching; alternating current (AC) optimal power flow modeling; and use of active and dynamic transmission ratings.

In particular we solicit proposals for presentations on topics and questions such as the following:

(1) Stochastic modeling for unit commitment and operating reserves:

- Given the difficulty in formulating and solving full-scale stochastic unit-commitment problems, what interim steps might be taken to more intelligently incorporate information about uncertainty into unit-commitment and dispatch?
- How can uncertainty be described in a manageable set of scenarios or constraints that improve unit-commitment and dispatch while allowing good solutions to be achieved in the required timeframe?
- If a stochastic unit-commitment model is used, how should prices be calculated, given that the stochastic unit-commitment formulation no longer produces as part of its solution a single set of deterministic shadow prices for power at each location?
- How would a stochastic day-ahead unit commitment mechanism alter current market software for other processes (for example, reliability unit-commitment processes)?
- What steps toward better incorporation of uncertainty into unit-commitment might be taken over the next 5 to 10 years?
- What methods can be used to calculate requirements for contingency reserves and regulating reserves?
  - How can reserves calculations more completely capture the uncertainty and variability of the system, including forecast error?
  - How can outage probability be captured in contingency reserve calculations, and how good is the available data?
  - What methods can be used to determine reserve zones?

(2) Optimal transmission switching:

- Simple optimal direct current (DC) transmission switching appears to represent a potentially solvable technical problem using existing computational resources if transmission operators optimize only a small number of transmission switch positions. It is less clear whether transmission switching model formulations that include realistic representations of reliability requirements are solvable. What is the performance of these more complex model formulations?
- What additional computational impediments, if any, exist to implementing optimal transmission switching over a small number of switches while maintaining reliability?
- What steps toward optimal transmission switching might be taken over the next 5 to 10 years?

(3) AC optimal power flow modeling:

- What is the current state of computational capability with respect to dependably solving AC optimal power flow problems, including analysis of power system reliability?
- Discussions during previous conferences have centered on concerns that current system data quality might not allow for an AC optimal power flow model to be properly formulated and solved. What are the specific data concerns, and what needs to be done to address them? What accuracy of solutions is appropriate?
- What steps toward use of AC optimal power flow modeling might be taken over the next 5 to 10 years?

(4) Transmission limit modeling:

- Previous presentations examined the use of post-contingency analysis when determining transmission ratings, including consideration of availability of ramping capability. How can (or have) adaptive transmission ratings been implemented?
- Previous presentations also examined how transmission ratings might be updated in real time in response to ambient conditions. How have such dynamic transmission ratings been implemented?
- What are the data or computational challenges associated with implementing adaptive or dynamic transmission ratings?
- How can inter-temporal considerations regarding transmission line loadings and limits be incorporated into economic dispatch algorithms?

(5) What improvements have occurred in linear programs, nonlinear programs and mixed integer programing (MIPs) for faster and/or better solutions?

(6) What new and more efficient approaches to loop flow and joint dispatch have been developed? How

[1] *http://www.ferc.gov/industries/electric/indus-act/market-planning.asp.*

much inefficiency exists in the current process?

Discussion of these topics should highlight any advances made since last year's conference and provide context for any proposals or presentations on best practices, other analyses of current operations with respect to these and related topics, and provide opportunity to discuss existing practices that need improvement.

The technical conference will be held in conference rooms 3M–2, 3M–3, and 3M–4 at the Federal Energy Regulatory Commission headquarters, 888 First Street NE., Washington, DC 20426. All interested participants are invited to attend, and participants with ideas for relevant presentations are invited to nominate themselves to speak at the conference.

Speaker nominations must be submitted on or before April 16, 2014 through the Commission's Web site [2] by providing the proposed speaker's contact information along with a title, abstract, and list of contributing authors for the proposed presentation. Proposed presentations should be closely related to the topics discussed above. Speakers and presentations will be selected to ensure relevant topics and to accommodate time constraints.

Although registration is not required for general attendance by United States citizens, we encourage those planning to attend the conference to register through the Commission's Web site.[3] We will provide nametags for those who register on or before June 19, 2014.

Due to new security procedures, we strongly encourage attendees who are not citizens of the United States to register for the conference by June 2, 2014, in order to avoid any delay associated with being processed by FERC security.

The Commission will accept comments following the conference, with a deadline of July 31, 2014.

There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call 866 208–3676 (toll free). For TTY, call 202 502–8659.

A WebEx will be available. Off-site participants interested in listening via teleconference or listening and viewing the presentations through WebEx must register at *https://www.ferc.gov/whats-new/registration/real-market-6-23-14-form.asp*, and do so by 5:00 p.m. EST on June 16, 2014. WebEx and teleconferencing may not be available to those who do not register.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 502–8659 (TTY), or send a fax to (202) 208–2106 with the required accommodations.

For further information about these conferences, please contact:

Sarah McKinley (Logistical Information), Office of External Affairs, (202) 502–8004, *Sarah.McKinley@ferc.gov*.

Daniel Kheloussi (Technical Information), Office of Energy Policy and Innovation, (202) 502–6391, *Daniel.Kheloussi@ferc.gov*.

Dated: March 28, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–07500 Filed 4–3–14; 8:45 am]

**BILLING CODE 6717–01–P**

[2] The speaker nomination form is located at *https://www.ferc.gov/whats-new/registration/real-market-6-23-14-speaker-form.asp.*

[3] The registration form is located at *https://www.ferc.gov/whats-new/registration/real-market-6-23-14-form.asp.*

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 2485–063]**

### FirstLight Hydro Generating Company; Notice of Dispute Resolution Panel Meeting and Technical Conference

On March 28, 2014, Commission staff, in response to the filing of a Notice of Study Dispute by the U.S. Fish and Wildlife Service (FWS) on March 13, 2014, convened a single three-person Dispute Resolution Panel (Panel) pursuant to 18 CFR 5.14(d).

The Panel will hold a technical conference at the time and place identified below. The technical conference will address the study dispute regarding the need to quantify the entrainment of American shad eggs and larvae into the Northfield Mountain Pumped Storage Project (P–2485) as requested by FWS in its study request filed on March 4, 2014.

The purpose of the technical session is for the disputing agency, applicant, and Commission to provide the Panel with additional information necessary to evaluate the disputed study. All local, state, and federal agencies, Indian tribes, and other interested parties are invited to attend the meeting as observers. The Panel may also request information or clarification on written submissions as necessary to understand the matters in dispute. The Panel will limit all input that it receives to the specific study or information in dispute and will focus on the applicability of the study or information to the study criteria stipulated in 18 CFR 5.9(b). If the number of participants wishing to speak creates time constraints, the Panel may, at its discretion, limit the speaking time for each participant.

If you have any questions, please contact Bill Connelly, Dispute Resolution Panel Chair, at *william.connelly@ferc.gov* or (202) 502–8587.

**Technical Conference**

Date: Tuesday, April 8, 2014.

Time: 9:00 a.m.–4:00 p.m. (EDT).

Place: Northfield Mountain Visitor Center, 99 Millers Falls Road (Route 63), Northfield, MA 01360.

Dated: March 31, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–07534 Filed 4–3–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP14–121–000]**

### Strom, Inc.; Notice of Petition for Declaratory Order

Take notice that on March 24, 2014, Strom, Inc. pursuant to section 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207 (2013) filed a Petition for Declaratory Order seeking to utilize a new portable LNG liquefication technology (''LNG/B'') to convert Natural Gas purchased from FERC regulated companies. The LNG will be utilized by U.S. corporations and/or exported pursuant to Strom's export applications submitted to the U.S. Department of Energy-Fossil Fuel Section, and in accordance with section 3 of the NGA. Strom contends that since this is a portable system and not a LNG terminal as defined by the NGA and not a facility as defined by law, that no FERC permit is required. Strom contends that any permit should be issued by the State Commission in Florida and/or local jurisdictions. Strom also contends that it is a third party marketer of a product regulated by FERC under the NGA.

Any person desiring to intervene or to protest this filing must file in

accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on April 18, 2014.

Dated: March 27, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–07495 Filed 4–3–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 14575–000]**

### Archon Energy 1, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 6, 2014, Archon Energy 1, Inc. filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Black Butte Afterbay Hydropower Project (Black Butte Project or project) to be located on Stony Creek, near the city of Orland, Glenn County, California. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The project would be located at the U.S. Army Corps of Engineering's Black Butte dam and would utilize existing infrastructure and afterbay of the dam. The proposed project would consist of the following: (1) A bypass intake in the afterbay of Black Butte reservoir; (2) two 2,800-foot-long pressurized, reinforced concrete pipes creating approximately 20 feet of head; (3) a powerhouse, containing two low-head, 2.5-megawatt Kaplan turbine-generators; and (4) an undefined interconnection point to the grid within several hundred feet of the proposed powerhouse. The estimated annual generation of the Black Butte Project would be 22,000 megawatt-hours.

*Applicant Contact:* Mr. Paul Grist, President, Archon Energy 1, Inc., 101 E. Kennedy Blvd., Suite 2800, Tampa, Florida 33602; phone: (415) 377–2460.

*FERC Contact:* Adam Beeco; phone: (202) 502–8655.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14575–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–14575) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: March 26, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–07493 Filed 4–3–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 14597–000]**

### FFP Project 100, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On March 3, 2014, FFP Project 100, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of hydropower at the U.S. Army Corps of Engineers' (Corps) C. W. Bill Young Lock and Dam located on the Allegheny River in Allegheny County, Pennsylvania. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed C. W. Bill Young Lock and Dam Hydroelectric Project would consist of the following: (1) A new 150-foot-wide, 200-foot-long intake channel; (2) a new 200-foot-long by 200-foot-wide concrete powerhouse containing three generating units each rated at 5.0 megawatts (MW) having a total installed capacity of 15 MW; (3) a new 100-foot-wide, 300-foot-long tailrace channel; (4) new concrete retaining walls upstream of the intake and downstream of the new powerhouse; (5) a new 40-foot-long by 40-foot-wide substation; (6) a new 69-kilovolt transmission line approximately 6,129 feet long from the new substation to an existing substation; and (7) a new access road 60 feet in length. The estimated annual generation of the proposed project would be 93 gigawatt-hours.

*Applicant Contact:* Daniel Lissner, Free Flow Power Corporation, 239 Causeway Street, Suite 300, Boston, MA 02114; phone: (978) 252–7111.

*FERC Contact:* Monir Chowdhury; phone: (202) 502–6736.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14597–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–14597) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: March 27, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–07503 Filed 4–3–14; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–9014–3]**

### Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/*.

Weekly receipt of Environmental Impact Statements Filed 03/24/2014 Through 03/28/2014 Pursuant to 40 CFR 1506.9.

**NOTICE:**

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html*.

*EIS No. 20140100, Final EIS, BLM, CO,* Colorado River Valley Proposed Resource Management Plan, Review Period Ends: 05/05/2014, Contact: Brian Hopkins 970–876–9073.

*EIS No. 20140101, Final EIS, FHWA, NY,* New York Gateway Connections Improvement Project to the US Peace Bridge Plaza, Review Period Ends: 05/05/2014, Contact: Jonathan McDade 518–431–4127.

*EIS No. 20140102, Final EIS, USFS, ID,* Lost Creek-Boulder Creek Landscape Restoration Project, Review Period Ends: 05/12/2014, Contact: Holly Hutchinson 208–347–0325.

*EIS No. 20140103, Final EIS, FERC, AZ,* Sierrita Pipeline Project, Review Period Ends: 05/05/2014, Contact: David Hanobic 202–502–8312.

*EIS No. 20140104, Final Supplement, FHWA, WI,* Wisconsin State Highway 23, Fond du Lac to Plymouth, Contact: George Poirier 608–829–7500. Under MAP–21 section 1319, FHWA has issued a single SFEIS and ROD. Therefore, the 30-day wait/review period under NEPA does not apply to this action.

*EIS No. 20140105, Draft EIS, NOAA, CA,* Cordell Bank and Gulf of the Farallones Boundary Expansion, Comment Period Ends: 06/30/2014, Contact: Maria Brown 541–561–6622.

**Amended Notices**

*EIS No. 20140074, Final EIS, USAF, 00,* KC–46A Formal Training Unit (FTU) and First Main Operating Base (MOB 1) Beddown, Review Period Ends: 04/21/2014, Contact: Jean Reynolds 210–925–4534. Revision to the FR Notice Published 03/21/2014; Correction to the Agency Contact Phone Number 210–925–4534.

Dated: April 1, 2014.

**Cliff Rader,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 2014–07584 Filed 4–3–14; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPP–2012–0906; FRL–9905–60]**

### Pesticides; Final Guidance for Pesticide Registrants on Web-Distributed Labeling

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability.

**SUMMARY:** The Agency is announcing the availability of a Pesticide Registration Notice (PR Notice) titled ''Web-Distributed Labeling for Pesticide Products.'' This PR Notice was issued by the Agency on March 24, 2014, and is identified as PR Notice 2014–1. PR Notices are issued by the Office of Pesticide Programs (OPP) to inform pesticide registrants and other interested persons about important policies, procedures, and registration related decisions, and serve to provide guidance to pesticide registrants and OPP personnel. This particular PR Notice provides guidance to the registrant concerning the process by which registrants can make legally-valid versions of pesticide labeling available through the Internet. Web-distributed labeling would allow users to retrieve a streamlined version of the pesticide product labeling, containing the directions for use and necessary information related to the user's specific state and intended site of use.

**FOR FURTHER INFORMATION CONTACT:** Michelle Arling, Field & External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–5891; email address: *arling.michelle@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

This action is directed to the public in general, although this action may be of particular interest to those persons who register and use pesticide products and to state regulators of pesticide products. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

*B. How can I get copies of this document and other related information?*

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0906, is available either electronically through *http://www.regulations.gov* or in hard copy at the OPP Docket in the Environmental Protection Agency Docket Center (EPA/DC), located in EPA West, Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review

the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

**II. What guidance does this PR Notice provide?**

This final PR Notice provides guidance to the registrant concerning how EPA intends to implement web-distributed labeling under this voluntary system. Shorter, relevant labeling could be clearer and easier for the user to understand, improving compliance with pesticide labeling requirements and thereby protecting human health and the environment from unintentional misuse of pesticides. Web-distributed labeling would also allow for more rapid updates to pesticide labeling, meaning risk mitigation measures and new uses can reach the user more quickly than under the current paper-based system. First, the PR Notice defines terms used related to web-distributed labeling in this notice. It includes suggested language that registrants can use on the labeling affixed to or accompanying the pesticide container to reference the web-distributed labeling portion of labeling. It recommends content, function, and security for the Web site associated with a product's web-distributed labeling. Finally, the PR Notice suggests a process by which registrants can request that a product's labeling include web-distributed labeling and outlines what information EPA expects to receive.

**III. Do PR Notices contain binding requirements?**

The PR Notice discussed in this notice is intended to provide guidance to EPA personnel and decision makers and to pesticide registrants. While the requirements in the statutes and Agency regulations are binding on EPA and the applicants, this PR Notice is not binding on either EPA or pesticide registrants, and EPA may depart from the guidance where circumstances warrant and without prior notice. Likewise, pesticide registrants may assert that the guidance is not appropriate generally or not applicable to a specific pesticide or situation.

**Authority:** 7 U.S.C. 136–136y.

**List of Subjects**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: March 24, 2014.

**Marty Monell,**

*Acting Director, Office of Pesticide Programs.*

[FR Doc. 2014–07458 Filed 4–3–14; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

### Information Collection Being Submitted for Review and Approval to the Office of Management and Budget (OMB)

**AGENCY:** Federal Communications Commission (FCC).

**ACTION:** Notice; request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3502—3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimates; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB Control Number.

**DATES:** Written PRA comments should be submitted on or before May 5, 2014. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

**ADDRESSES:** Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at 202–395–5167, or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Leslie Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), via the Internet at *Leslie.Smith@fcc.gov* . To submit your PRA comments by email, send them to: *PRA@fcc.gov*.

**FOR FURTHER INFORMATION CONTACT:** Leslie Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), at 202–418–0217, or via the Internet at: *Leslie.Smith@fcc.gov.*

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060–0986.

*Title:* Competitive Carrier Line Count Report and Self-Certification as a Rural Carrier.

*Form Number(s):* FCC Form 481, FCC Form 507, FCC Form 508 and FCC Form 509, and FCC Form 525.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit; not-for-profit institutions; and state, local or tribal government.

*Number of Respondents:* 1,857 respondents; 12,736 responses.

*Estimated Time per Response:* 0.5 hours to 100 hours.

*Frequency of Response:* On occasion, quarterly and annual reporting requirements; recordkeeping requirement; and third party disclosure requirement.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 151, 154(i) and (j), 205, 221(c), 154, 303(r), 403, 410, and 1302 of the Communications Act of 1934, as amended.

*Total Annual Burden:* 265,411 hours.

*Total Annual Cost:* None.

*Privacy Act Impact Assessment:* No impact(s).

*Nature and Extent of Confidentiality:* We note that USAC must preserve the confidentiality of all data obtained from respondents; must not use the data except for purposes of administering the universal service programs; and must not disclose data in company-specific form unless directed to do so by the Commission.

*Needs and Uses:* In November 2011, the Commission adopted an *Order* reforming its high-cost universal service support mechanisms. Connect America Fund; A National Broadband Plan for Our Future; Establish Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform-Mobility Fund, WC Docket Nos. 10–90, 07–135, 05–337, 03–109; GN Docket No. 09–51; CC Docket Nos. 01–92, 96–45; WT Docket No. 10–208, *Order and Further Notice of Proposed Rulemaking,* 26 FCC Rcd 17663 (2011) (USF/ICC Transformation Order); *see* also Connect America Fund *et al.,* WC Docket No. 10–90 *et al., Third Order on Reconsideration,* 27 FCC Rcd 5622 (2012); Connect America Fund *et*

*al.,* WC Docket No. 10–90 *et al., Order,* 27 FCC Rcd 605 (Wireline Comp. Bur. 2012); Connect America Fund *et al.,* WC Docket No. 10–90 *et al., Fifth Order on Reconsideration,* 27 FCC Rcd 14549 (2012); Connect America Fund *et al.,* WC Docket No. 10–90 *et al., Order,* 28 FCC Rcd 2051 (Wireline Comp. Bur. 2013); Connect America Fund *et al.,* WC Docket No. 10–90 *et al., Order,* DA 13–1115 (Wireline Comp. Bur. rel. May 16, 2013.

The Commission has received OMB approval for most of the information collections required by this *Order.* At a later date the Commission plans to submit additional revisions for OMB review to address other reforms adopted in the *Order* (*e.g.,* 47 CFR 54.313(a)(11)). For this revision, the Commission proposes to merge the existing universal service information collection requirements from OMB Control No. 3060–0972 into this control number. There are no changes to the FCC Form 525 or FCC Form 481, which are part of this information collection. The Commission proposes to add, FCC Forms 507, 508 and 509, currently approved under collection 3060–0972, to this information collection. There are no changes to the currently approved FCC Forms 507, 508 and 509.

Federal Communications Commission.

**Gloria J. Miles,**

*Federal Register Liaison, Office of the Secretary, Office of Managing Director.*

[FR Doc. 2014–07528 Filed 4–3–14; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Agency Information Collection Activities: Submission for OMB Review; Comment Request Re: Interagency Biographical and Financial Report

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Notice and request for comment.

**SUMMARY:** In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. As part of its continuing effort to reduce paperwork and respondent burden, the FDIC invites the general public and other Federal agencies to take this opportunity to comment on renewal of an existing information collection as required by PRA. On January 30, 2014 (79 FR 4906), the FDIC requested comment for 60 days on renewal of its information collection entitled *Interagency Biographical and Financial Report,* which is currently approved under OMB Control No. 3064–0006. No comments were received on the proposal to renew. The FDIC hereby gives notice of submission to OMB of its request to renew the collection.

**DATES:** Comments must be submitted on or before May 5, 2014.

**ADDRESSES:** Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html*
- *Email: comments@fdic.gov* Include the name of the collection in the subject line of the message.
- *Mail:* Leneta G. Gregorie (202–898–3719), Counsel, Room NYA–5050, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503. A copy of the form can be accessed through the following link: *http://www.fdic.gov/formsdocuments/Bio-FinReport.pdf.*

**FOR FURTHER INFORMATION CONTACT:** Leneta Gregorie, at the FDIC address above.

**SUPPLEMENTARY INFORMATION:** Proposal to renew the following currently approved collections of information:

*Title:* Interagency Biographical and Financial Report.

*OMB Number:* 3064–0006.

*Frequency of Response:* On occasion.

*Affected Public:* Insured state nonmember banks and state savings associations.

*Estimated Number of Respondents:* 650.

*Estimated Time per Response:* 4 hours.

*Total Estimated Annual Burden:* 2600 hours.

*General Description of Collection:* The *Interagency Biographical and Financial Report* is submitted to the FDIC by each director or officer of a proposed or operating financial institution applying for federal deposit insurance as a state nonmember bank or state savings association. The FDIC uses the information to evaluate the general character of bank management as required by the Federal Deposit Insurance Act (12 U.S.C. 1828(c)).

**Request for Comment**

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 1st day of April, 2014.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2014–07529 Filed 4–3–14; 8:45 am]

**BILLING CODE 6714–01–P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, April 8, 2014, to consider the following matters:

*Summary Agenda:* No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' Meetings.

Memorandum and resolution re: Notice of Proposed Rulemaking on Regulatory Capital Rules: Regulatory Capital, Proposed Revisions to the Definition of Eligible Guarantee.

Memorandum and resolution re: Notice of Proposed Rulemaking to Make Certain FDIC Procedural Regulations Applicable to State Savings Associations and Rescind Corresponding Regulations Transferred

from the Former Office of Thrift Supervision.

Memorandum and resolution re: Notice of Proposed Rulemaking Regarding Part 390 Subpart U—Securities of State Savings Associations and Part 335—Securities of Nonmember Insured Banks.

Memorandum and resolution re: Final Rule Regarding Restrictions on Sales of Assets of a Covered Financial Company by the Federal Deposit Insurance Corporation.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

*Discussion Agenda:*

Memorandum and resolution re: Final Rule—Regulatory Capital Rules: Regulatory Capital, Enhanced Supplementary Leverage Ratio Standards for Certain Bank Holding Companies and their Subsidiary Insured Depository Institutions.

Memorandum and resolution re: Notice of Proposed Rulemaking to Implement Basel Committee Revisions to the Denominator Measure for the Supplementary Leverage Ratio.

Memorandum and resolution re: Final Rule—Implementation of Basel III and Related Amendments to the FDIC's Risk-Based and Leverage Capital Requirements and the Methodologies for Calculating Risk-Weighted Assets under the Standardized and Advanced Approaches.

Briefing re: Update of Projected Deposit Insurance Fund Losses, Income, and Reserve Ratios for the Restoration Plan.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, DC.

This Board meeting will be Webcast live via the Internet and subsequently made available on-demand approximately one week after the event. Visit *https://fdic.primetime.mediaplatform.com/#/channel/1232003497484/Board+Meetings* to view the event. If you need any technical assistance, please visit our Video Help page at: *http://www.fdic.gov/video.html.*

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call 703–562–2404 (Voice) or 703–649–4354 (Video Phone) to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at 202–898–7043.

Dated: April 1, 2014.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2014–07653 Filed 4–1–14; 11:15 am]

**BILLING CODE P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 1, 2014.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204:

1. *Berkshire Hills Bancorp, Inc.,* Pittsfield, Massachusetts; to become a bank holding company by converting its subsidiary savings bank, Berkshire Bank, Pittsfield, Massachusetts, to a Massachusetts trust company.

2. *Kennebec Savings, MHC and Kennebec Savings, Inc.,* both in Augusta, Maine; to become a mutual bank holding company and a stock bank holding company, respectively, by acquiring 100 percent of the voting shares of Kennebec Savings Bank, Augusta, Maine.

B. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. *Mars National Bancorp, Inc.,* Mars, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The Mars National Bank, Mars, Pennsylvania.

Board of Governors of the Federal Reserve System, April 1, 2014.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2014–07555 Filed 4–3–14; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 2014–06930) published on page 17542 of the issue for Friday, March 28, 2014.

Under the Federal Reserve Bank of Chicago heading, the entry for Minier Financial, Inc., Employee Stock ownership Plan with 401(k) Provisions, Minier, Illinois, is revised to read as follows:

1. *Minier Financial, Inc. Employee Stock Ownership Plan with 401(k) Provisions,* Minier, Illinois; to acquire an additional 14 percent, for a total of 51 percent, of the voting shares of Minier Financial, Inc., and thereby indirectly acquire additional voting shares of First Farmers State Bank, both in Minier, Illinois.

In addition, under the Federal Reserve Bank of Minneapolis heading, the entry for Alerus Financial Corporation, Grand Forks, North Dakota, is revised to read as follows:

1. *Alerus Financial Corporation,* Grand Forks, North Dakota; to acquire 100 percent of the voting shares of Private Bancorporation, Inc., and thereby indirectly acquire voting shares of Private Bank Minnesota, both in Minneapolis, Minnesota.

Comments on these applications must be received by April 22, 2014.

Board of Governors of the Federal Reserve System, April 1, 2014.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2014–07554 Filed 4–3–14; 8:45 am]

**BILLING CODE 6210–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

### Opportunity To Co-sponsor an AHRQ Research Conference

**AGENCY:** Agency for Healthcare Research and Quality (AHRQ), HHS.

**ACTION:** Notice of opportunity to co-sponsor an AHRQ Conference.

**SUMMARY:** AHRQ announces the opportunity for non-Federal public and private sector entities to co-sponsor an AHRQ conference in the Washington, DC area in early March, 2015. Potential co-sponsors must have a demonstrated interest and experience in health services research, implementation, and evaluation. Potential co-sponsors must also be capable of sponsoring and managing various discrete sessions or events associated with the conference and be willing to participate substantively in the co-sponsored activity.

**DATES:** To receive consideration for this opportunity, a proposal to participate as a co-sponsor must be received by AHRQ by 5 p.m. EDT May 5, 2014 at the address listed below. Proposals will meet the deadline if they are either (1) received or (2) postmarked on or before the deadline. Privately metered postmarks will not be accepted as proof of timely mailing. Proposals received after the established deadline will not be considered.

**ADDRESSES:** Proposals for co-sponsorship should be sent to Ms. Jaime Zimmerman, Agency for Healthcare Research and Quality, 540 Gaither Road, Room 3006, Rockville, Maryland 20850. Proposals may also be emailed to *Jaime.zimmerman@ahrq.hhs.gov*.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jaime Zimmerman, Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland, 20850; (301) 427–1456; *Jaime.zimmerman@ahrq.hhs.gov*.

**SUPPLEMENTARY INFORMATION:**

#### Description

AHRQ was originally created as the Agency for Health Care Policy and Research on December 19, 1989, under the Omnibus Budget Reconciliation Act of 1989, as a Public Health Service Agency in the U.S. Department of Health and Human Services (HHS). The agency was reauthorized on December 6, 1999, by the Healthcare Research and Quality Act of 1999, and re-named the Agency for Healthcare Research and Quality.

AHRQ's mission is to produce evidence to make health care safer, higher quality, more accessible, equitable, and affordable, and to work with HHS and other partners to make sure that the evidence is understood and used.

AHRQ's priority areas of focus are:

- Improve health care quality by accelerating implementation of patient-centered outcomes research.
- Make health care safer and reduce the number of patients who experience preventable harm in the course of receiving care.
- Increase accessibility by providing evidence on the effects of expanding insurance coverage.
- Improve health care affordability, efficiency, and cost transparency.

The purpose of the conference, consistent with AHRQ's mission, is to bring together grantees, contractors, and others who produce AHRQ-supported research and products with stakeholders who can use those findings and products to achieve measurable improvements in the health care services patients receive. The conference provides additional opportunities to ensure that AHRQ-supported research is delivering the expected results—namely, independent, user-driven research that can help people and organizations at all levels of health care. The conference's goal is to focus on the results of AHRQ's research, share best practices, and demonstrate how these findings provide solutions for the challenges facing today's health care system. The conference also provides opportunities to interact with grantees, contractors, and users who can implement research-based solutions to improve care.

The co-sponsors will assist with conference and agenda development, strategic messaging, coordination, financial management, and meeting logistics in conjunction with AHRQ staff. A co-sponsor can charge registration fees to recover costs associated with its sponsored events; however, a co-sponsor may not set registration fees at an amount higher than necessary to recover a co-sponsor's related conference expenses. Further, the co-sponsor is solely responsible for collecting, holding and disbursing any registration fees it collects.

Eligibility for Co-Sponsorship: To be eligible, a potential co-sponsor shall: (1) Have a demonstrated understanding, commitment, and experience in conducting and/or sponsoring health services research, especially as it relates to one or more of AHRQ's priority areas; (2) be knowledgeable about strategies for disseminating and implementing research findings, products, and tools and fostering changes in practice and health care policy; (3) have a track record in using a variety of methods for evaluating research impact; (4) participate substantively in the co-sponsored activity, not just provide funding or logistical support; and (5) have an organizational or corporate mission that is consistent with AHRQ and HHS.

The selected co-sponsoring organization(s) shall furnish the necessary personnel, materials, services, and facilities to administer its responsibility for the conference. These duties will be outlined in a co-sponsorship agreement with AHRQ that will set forth the details of the co-sponsored activity, including the requirements that any fees collected by the co-sponsor shall be limited to the amount necessary to cover the co-sponsor's related conference expenses. A co-sponsorship agreement may include the following language:

#### Model Co-Sponsorship Agreement

The Department of Health and Human Services (HHS) [or name of subcomponent] and [name of co-sponsor] agree to co-sponsor [name of event], according to the terms expressed below:

*1. Background*

[Provide the following information: (a) The nature and purpose of the event; (b) the identity and background of the co-sponsor(s); (c) the importance of the event to both HHS and the co-sponsor; (d) the substantive interest and special expertise of the co-sponsor in the subject matter of the event; (e) any other relevant background information that may explain the mutual interest of HHS and the co-sponsor in working together on the event.]

*2. Responsibilities for Developing the Event*

[Provide the following information: (a) The respective responsibilities of HHS and the co-sponsor for developing the substantive aspects of the event, such as the agenda and speakers; (b) the respective responsibilities of HHS and the co-sponsor for logistics and finances, such as arranging and paying for conference facilities, advertising, food, and any other event expenses. **Note:** This is the core paragraph of the co-sponsorship agreement, and it should reflect as much detail as HHS and the co-sponsor reasonably can provide.]

*3. Registration Fees and Other Charges*

[Provide the following information: (a) State whether the co-sponsor intends

to charge registration fees, and, if so, state that the co-sponsor agrees to set a fee no higher than necessary to recover its share of the costs of the event; (b) state whether HHS and the co-sponsor agree that HHS employees will be allowed free attendance at the event; (c) state whether the co-sponsor intends to sell educational materials pertaining to the event or transcripts or recordings of the event, and, if so, state that the co-sponsor agrees to sell such items at cost.]

*4. Independently Sponsored Portions of Event*

[Provide the following information: (a) State whether either HHS or the co-sponsor intends to sponsor any discrete portion of the event independently; (b) describe any separately sponsored portion; (c) state that HHS resources, including staff, will not be used to develop, promote or otherwise support a portion of the event that is independently sponsored by the co-sponsor, although official announcements and brochures may contain factual references to the schedule of the entire event, including portions sponsored solely by the co-sponsor.]

*5. Fundraising*

[Name of co-sponsor] will make clear, in any solicitation for funds to cover its share of the event costs, that it, not HHS, is asking for the funds. [Name of co-sponsor] will not imply that HHS endorses any fundraising activities in connection with the event. [Name of co-sponsor] will make clear to donors that any gift will go solely toward defraying the expenses of [name of co-sponsor], not HHS.

*6. Promotional Activity*

[Name of co-sponsor] will not use the event primarily as a vehicle to sell or promote products or services. [Name of co-sponsor] will ensure that any incidental promotional activity does not imply that HHS endorses any products or services. [Name of co-sponsor] will make reasonable efforts, subject to HHS review, to segregate any incidental promotional activity from the main activities of the event.

*7. Event Publicity and Endorsements*

[Name of co-sponsor] will not use the name of HHS or any of its components, except in factual publicity for the specific event. Factual publicity includes dates, times, locations, purposes, agendas, fees, and speakers involved with the event. Such factual publicity shall not imply that the involvement of HHS in the event serves as an endorsement of the general policies, activities, or products of [name of co-sponsor]; where confusion could result, publicity should be accompanied by a disclaimer to the effect that no endorsement is intended. [Name of co-sponsor] will clear all publicity materials for the event with HHS to ensure compliance with this paragraph.

*8. Records*

Records concerning the event shall account fully and accurately for the financial commitments and expenditures of HHS and [name of co-sponsor]. Such records shall reflect, at a minimum, the amounts, sources, and uses of all funds.

*9. Public Availability*

This co-sponsorship agreement, as well as the financial records described in paragraph 8, shall be publicly available.

*10. Co-Sponsorship Guidance*

HHS and [name of co-sponsor] will abide by the legal memorandum of August 8, 2002, entitled ''Co-Sponsorship Guidance,'' issued by the HHS Designated Agency Ethics Official. Co-Sponsorship Proposal: Each co-sponsorship proposal shall contain a description of: (1) The entity or organization's background and history, (2) its ability to satisfy the co-sponsorship criteria detailed above, and (3) its proposed involvement in the co-sponsored activity.

Evaluation Criteria: After engaging in exploratory discussions with potential co-sponsors that respond to this notice, AHRQ will select the co-sponsor or co-sponsors using the following evaluation criteria:

(1) Qualifications and capability to fulfill co-sponsorship responsibilities;

(2) Creativity related to enhancing the conference, including options for interactive sessions and ideas for improving the event based on the 2012 conference offerings;

(3) Potential for reaching and generating attendees from among key stakeholders, including Federal, State and local policymakers, health care providers, consumers and patients, purchasers and payers, and other health officials and underserved/special populations;

(4) Experience administering conferences;

(5) Past or current work specific to health services research;

(6) Personnel names, professional qualifications, and specific expertise with conference planning;

(7) Availability and description of facilities needed to participate in and support the conference planning process, including office space, information technology, and telecommunication resources;

(8) Description of financial management expertise, including demonstration of experience in developing a budget and collecting and managing monies from organizations and individuals; and,

(9) Proposed plan for managing a conference with AHRQ.

Dated: March 28, 2014.

**Richard Kronick,**

*Director, Agency for Healthcare Research and Quality.*

[FR Doc. 2014–07562 Filed 4–3–14; 8:45 am]

**BILLING CODE 4160–90–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifier: CMS–10421]**

### Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing a summary of this proposed information collection for public comment. Interested persons are invited to send comments regarding this collection's proposed burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have also submitted to the Office of Management and Budget (OMB) the proposed information collection for their emergency review. While the information collection request (ICR) is necessary to ensure compliance with an initiative of the Administration, we are requesting emergency review of the ICR

for the Medicare Fee-for-Service Recovery Audit Prepayment Review Demonstration and Prior Authorization Demonstration be processed under the emergency clearance process associated with 5 CFR 1320.13(a)(2)(i) and 5 CFR 1320.13(a)(2)(ii). However, the revisions contained in this request only pertain to the Prior Authorization of Power Mobility Device (PMD) Demonstration.

The approval of the revisions to this ICR is essential to prevent improper payments for PMDs that do not meet Medicare coverage requirements. We believe that this demonstration prevents public harm by protecting the Medicare Trust Fund from improper payments made for PMDs that do not comply with Medicare policy and by ensuring that a beneficiary's medical condition warrants the medical equipment ordered. Reductions in improper payments will help ensure the sustainability of the Medicare Trust Fund and protect beneficiaries who depend upon the Medicare program. In absence of this expanded demonstration, a significant number of claims will not be reviewed to ensure compliance with § 1862(a)(l)(A) of the Act which provides that Medicare may only make payment for services which are reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Fee-for-Service Recovery Audit Prepayment Review Demonstration and Prior Authorization Demonstration; *Use:* On July 23, 2012, the Office of Management and Budget approved the collections required for two demonstrations of prepayment review and prior authorization. The first demonstration allows Medicare Recovery Auditors to review claims on a pre-payment basis in certain States. The second demonstration established a prior authorization program for Power Mobility Device claims in certain States.

For the Recovery Audit Prepayment Review Demonstration, CMS and its agents request additional documentation, including medical records, to support submitted claims. As discussed in more detail in Chapter 3 of the Program Integrity Manual, additional documentation includes any medical documentation, beyond what is included on the face of the claim that supports the item or service that is billed. For Medicare to consider coverage and payment for any item or service, the information submitted by the provider or supplier (e.g., claims) must be supported by the documentation in the patient's medical records. When conducting complex medical review, the contractor specifies documentation they require in accordance with Medicare's rules and policies. In addition, providers and suppliers may supply additional documentation not explicitly listed by the contractor. This supporting information may be requested by CMS and its agents on a routine basis in instances where diagnoses on a claim do not clearly indicate medical necessity, or if there is a suspicion of fraud.

For the Prior Authorization of Power Mobility Devices (PMDs) Demonstration, we are piloting prior authorization for PMDs. Prior authorization will allow the applicable documentation that supports a claim to be submitted before the item is delivered. For prior authorization, relevant documentation for review is submitted before the item is delivered or the service is rendered. CMS will conduct this demonstration in California, Florida, Illinois, Michigan, New York, North Carolina and Texas based on beneficiary address as reported to the Social Security Administration and recorded in the Common Working File (CWF). For the demonstration, a prior authorization request can be completed by the (ordering) physician or treating practitioner and submitted to the appropriate DME MAC for an initial decision. The supplier may also submit the request on behalf of the physician or treating practitioner. The physician, treating practitioner or supplier who submits the request on behalf of the physician or treating practitioner, is referred to as the ''submitter.'' Under this demonstration, the submitter will submit to the DME MAC a request for prior authorization and all relevant documentation to support Medicare coverage of the PMD item.

With this emergency **Federal Register** notice, we are announcing our plans to expand the demonstration from the seven aforementioned States to 12 new States, bringing the total number of participating States to 19; however, the original demonstration requirements will remain the same in all 19 States. The new States include Pennsylvania, Ohio, Louisiana, Missouri, Maryland, New Jersey, Indiana, Kentucky, Georgia, Tennessee, Washington, and Arizona.

*Form Number:* CMS–10421 (OCN: 0938–1169); *Frequency:* Occasionally; *Affected Public:* State, Local or Tribal Governments; *Number of Respondents:* 333,750; *Total Annual Responses:* 333,750; *Total Annual Hours:* 170,060. (For policy questions regarding this collection contact Daniel Schwartz at 410–786–4197. For all other issues call 410–786–1326.)

We are requesting OMB review and approval of this collection by *April 18, 2014,* with a 180-day approval period. Written comments and recommendations will be considered from the public if received by the date and address noted below.

Copies of the supporting statement and any related forms can be found at: *http://www.cms.hhs.gov/PaperworkReductionActof1995* or can be obtained by emailing your request, including your address, phone number, OMB number, and CMS document identifier, to: *Paperwork@cms.hhs.gov,* or by calling the Reports Clearance Office at: 410–786–1326.

When commenting on this proposed information collection, please reference the CMS document identifier and the OMB control number (OCN). To be assured consideration, comments and recommendations must be received in one of the following ways by *April 18, 2014:*

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address:

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier (CMS–10421), Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850 and,

OMB Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, New Executive Office Building, Room 10235, Washington, DC 20503, Fax Number: 202–395–6974.

Dated: April 1, 2014.

**Martique Jones,**

*Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2014–07577 Filed 4–3–14; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifiers: CMS–437 and CMS–10332]**

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services. HHS.

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments must be received by June 3, 2014.

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number (OCN). To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

**FOR FURTHER INFORMATION CONTACT:** Reports Clearance Office at (410) 786–1326.

**SUPPLEMENTARY INFORMATION:**

**Contents**

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

**CMS–437 Psychiatric Unit Criteria Work Sheet and Supporting Regulations; –10332 Disclosure for the In-Office Ancillary Services Exception**

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Reinstatement with Change of a currently approved collection; *Title of Information Collection:* Psychiatric Unit Criteria Work Sheet and Supporting Regulations; *Use:* Certain hospital units are excluded from the Medicare Prospective Payment System (PPS). The exclusion of units is not optional on the part of the provider but is required by section 1886(d)(1)(B) of the Social Security Act. That section excludes psychiatric hospitals, rehabilitation hospitals, hospitals whose inpatients are predominantly individuals under 18 years of age (children's hospitals), and psychiatric and rehabilitation units which are a distinct part of a hospital.

We propose to continue the current process of performing initial verifications and annual reverifications to determine that psychiatric units continue to comply with the regulatory criteria at 42 CFR 412.25 and 42 CFR 412.27 of the PPS regulations. These regulations state the criteria that distinct part units must meet for exclusion.

If, as a result of the regular survey process a hospital is certified as a psychiatric hospital by the State survey agency (SA), then it automatically satisfies the regulatory criteria for exclusion. Thus, no additional verification is required for psychiatric hospitals. Some verification is needed, however, to ensure that other types of hospitals and units meet the criteria for exclusion. Consequently, we instructed the Fiscal Intermediaries (FIs) and SAs to perform certain verification activities, beginning in October 1983 when PPS was implemented. We originally developed the CMS–437 as an SA Worksheet for verifying exclusions from PPS for psychiatric units.

Since April 9, 1994, PPS-excluded psychiatric units already excluded from the PPS have met CMS's annual requirement for PPS-exclusion by self-attesting that they remain in compliance with the PPS exclusion criteria. Under the current procedure, all psychiatric units applying for first-time exclusion are surveyed by the SAs. The SAs also perform surveys to investigate complaint allegations and conduct annual sample reverification surveys on 5 percent of all psychiatric units. The aforementioned exclusions continue to exist and thus we propose to continue to use the Criteria Worksheet, Forms CMS–437, for verifying first-time exclusions from the PPS, for complaint surveys, for its annual 5 percent validation sample, and for facility self-attestation. These forms are related to the survey and certification and Medicare approval of the PPS-excluded units. *Form Number:* CMS–437 (OCN: 0938–0358); *Frequency:* Annually; *Affected Public:* Private sector—Business or other for-profits; *Number of Respondents:* 1,614; *Total Annual Responses:* 1,614; *Total Annual Hours:* 404. (For policy questions regarding this collection contact Donald Howard at 410–786–6764.)

2. *Type of Information Collection Request:* Extension of a currently

approved collection; *Title of Information Collection:* Disclosure for the In-Office Ancillary Services Exception; *Use:* Physicians who provide certain imaging services (magnetic resonance imaging, computed tomography, and positron emission tomography) under the in-office ancillary services exception to the physician self-referral prohibition are required to create the disclosure notice as well as the list of other imaging suppliers to be provided to the patient. The patient will then be able to use the disclosure notice and list of suppliers in making an informed decision about his or her course of care for the imaging service. The physician must maintain a record of the disclosure in the patient's medical record. If we were investigating the referrals of a physician providing advanced imaging services under the in-office ancillary services exception, we would review the written disclosure in order to determine if the physician satisfied the requirement. *Form Number:* CMS–10332 (OCN: 0938–1133); *Frequency:* Occasionally; *Affected Public:* Private sector—Business or other for-profits; *Number of Respondents:* 71,000; *Total Annual Responses:* 71,106; *Total Annual Hours:* 125,383. (For policy questions regarding this collection contact Jacqueline Proctor at 410–786–8852).

Dated: April 1, 2014.

**Martique Jones,**

*Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2014–07575 Filed 4–3–14; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifiers: CMS–437 and CMS–10332]**

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

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**FOR FURTHER INFORMATION CONTACT:** Reports Clearance Office at (410) 786–1326.

**SUPPLEMENTARY INFORMATION:**

#### Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

**CMS–437 Psychiatric Unit Criteria Work Sheet and Supporting Regulations**

**CMS–10332 Disclosure for the In-Office Ancillary Services Exception**

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Since April 9, 1994, PPS-excluded psychiatric units already excluded from the PPS have met CMS's annual requirement for PPS-exclusion by self-attesting that they remain in compliance with the PPS exclusion criteria. Under the current procedure, all psychiatric units applying for first-time exclusion are surveyed by the SAs. The SAs also perform surveys to investigate complaint allegations and conduct annual sample reverification surveys on 5 percent of all psychiatric units. The aforementioned exclusions continue to exist and thus we propose to continue to use the Criteria Worksheet, Forms CMS–437, for verifying first-time exclusions from the PPS, for complaint surveys, for its annual 5 percent validation sample, and for facility self-attestation. These forms are related to the survey and certification and Medicare approval of the PPS-excluded units. *Form Number:* CMS–437 (OCN: 0938–0358); *Frequency:* Annually; *Affected Public:* Private sector—Business or other for-profits; *Number of Respondents:* 1,614; *Total Annual Responses:* 1,614; *Total Annual Hours:* 404. (For policy questions regarding this collection contact Donald Howard at 410–786–6764.)

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Dated: April 1, 2014.

**Martique Jones,**

*Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2014–07582 Filed 4–3–14; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Proposed Information Collection Activity; Comment Request Proposed Projects

*Title:* Family Violence Prevention and Services: Grants to States; Native American Tribes and Alaskan Native Villages; and State Domestic Violence Coalitions

*OMB No.:* 0970–0280

*Description:* The Family Violence Prevention and Services Act (FVPSA), 42 U.S.C. 10401 *et seq.,* authorizes the Department of Health and Human Services to award grants to States, Tribes—and Tribal Organizations, and State Domestic Violence Coalitions for family violence prevention and intervention activities. The proposed information collection activities will be used to make grant award decisions and to monitor grant performance.

*Respondents:* State Agencies Administering FVPSA Grants; Tribal Governments and Tribal Organizations; and State Domestic Violence Coalitions.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| State Grant Application | 53 | 1 | 10 | 530 |
| Tribal Grant Application | 150 | 1 | 5 | 750 |
| State Domestic Violence Coalition Application | 56 | 1 | 10 | 560 |
| State FVPSA Grant Performance Progress Report | 53 | 1 | 10 | 530 |
| Tribal FVPSA Grant Performance Progress Report | 150 | 1 | 10 | 1,500 |
| State Domestic Violence Coalition Performance Progress Report | 56 | 1 | 10 | 560 |
| Estimated Total Annual Burden Hours | | | | 4,430 |

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to

comments and suggestions submitted within 60 days of this publication.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 2014–07530 Filed 4–3–14; 8:45 am]

**BILLING CODE 4184–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–D–0147]**

### Types of Communication During the Review of Medical Device Submissions; Guidance for Industry and Food and Drug Administration Staff; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled ''Types of Communication During the Review of Medical Device Submissions.'' The purpose of this guidance is to update the Agency's approach to Interactive Review and other additional types of communication, to reflect FDA's implementation of the Medical Device User Fee Act of 2007 (MDUFA II) Commitment Letters and of undertakings agreed to in connection with the Medical Device User Fee Amendments of 2012 (MDUFA III). These new Agency communication commitments are to increase the efficiency of the review process.

**DATES:** Submit either electronic or written comments on this guidance at any time. General comments on Agency guidance documents are welcome at any time.

**ADDRESSES:** An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for single copies of the guidance document entitled ''Types of Communication During the Review of Medical Device Submissions'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002 or the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Administration, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–847–8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit electronic comments on the guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Samie Allen, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1533, Silver Spring, MD 20993–0002, 301–796–6055, or Stephen Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852–1448, 301–827–6210.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

In the letters dated September 27, 2007, from the Secretary of Health and Human Services to the Chairman of the Committee on Health, Education, Labor, and Pensions of the U.S. Senate and the Chairman of the Committee on Energy and Commerce of the U.S. House of Representatives setting out the goals of section 201(c) of MDUFA II, Title II of the Food and Drug Administration Amendments of 2007 (FDAAA) (21 U.S.C. 379i note), FDA committed to developing a guidance document that describes an interactive review process between FDA and industry for specific medical device premarket submissions. Further, during discussions with representatives of the medical device industry in the development of the Agency's recommendations for MDUFA III, Title II of the Food and Drug Administration Safety and Innovation Act, Public Law 112–144 (July 9, 2012) (21 U.S.C. 301 note), the Agency proposed process improvements to provide further transparency into the review process, including new communication commitments.

In the **Federal Register** on March 5, 2013 (78 FR 14305), FDA announced the availability of the draft guidance document. Interested persons were invited to comment by June 3, 2013. Four comments were received and, in general, were supportive of the guidance. However, the comments contained multiple recommendations pertaining to the content of the guidance and the need for clarification, particularly for the Interactive Review section. In response to these comments, FDA revised the guidance document to restructure the Interactive Review section to clarify how this process works and to include references to additional submission types for which Interactive Review pertains. Although several commenters expressed concern about FDA's intention to limit the last round of Interactive Review to 7 days, we did not modify the guidance because this approach is needed in order to appropriately balance the intent of interactive review with FDA's commitment to meet the performance goals agreed upon as part of MDUFA III. In response to comments regarding our intention to limit the issuance of second Additional Information (AI) letters for 510(k) submissions, the guidance was modified slightly to clarify the circumstances in which a second AI letter might be issued, but remains unchanged in explaining that these circumstances will remain limited and at FDA's discretion. FDA will continually assess any impacts that the limited use of a second AI letter may have, and, if needed, may consider modifications to this approach. In addition to modifications to the Interactive Review section, we clarified other items throughout the guidance, and included Pre-Submissions as a submission type subject to Acceptance Communication. This document supersedes ''Interactive Review for Medical Device Submissions: 510(k)s, Original PMAs, PMA Supplements, Original BLAs, and BLA Supplements'' dated February 28, 2008.

#### II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the Agency's current thinking on communication during a medical device premarket submission review to provide further transparency into, and to increase the efficiency of, the review process. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

#### III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by using the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/*

*DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov* or from CBER at *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm.* To receive ''Types of Communication During the Review of Medical Device Submissions,'' you may either send an email request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 1804 to identify the guidance you are requesting.

**IV. Paperwork Reduction Act of 1995**

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814, subpart B, have been approved under OMB control number 0910–0231; and the collections of information in 21 CFR part 601 have been approved under OMB control number 0910–0338.

**V. Comments**

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: April 1, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–07546 Filed 4–3–14; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

**DATES:** Comments on this ICR should be received within 30 days of this notice.

**ADDRESSES:** Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

**FOR FURTHER INFORMATION CONTACT:** To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

**SUPPLEMENTARY INFORMATION:**

**Information Collection Request Title: Rural Health Network Development Planning Performance Improvement and Measurement System Database**

*OMB No. 0915–xxxx—NEW*

*Abstract:* The purpose of the Rural Health Network Development Planning (Network Planning) program, authorized by Section 330A(f) of the Public Health Service Act, 42 U.S.C. 254c(f), as amended by section 201, Public Law 107–251 of the Health Care Safety Net Amendments of 2002, is to assist in the development of an integrated healthcare network, if the network participants do not have a history of collaborative efforts. The Network Planning program helps to promote the planning and development of health care networks in order to: (i) Achieve efficiencies; (ii) expand access to, coordinate, and improve the quality of essential health care services; and (iii) strengthen the rural health care system as a whole. This program brings together key parts of a rural health care delivery system, particularly those entities that may not have collaborated in the past under a formal relationship, to work together to establish and improve local capacity and coordination of care. This grant program supports 1 year of planning with the primary goal of helping networks create a foundation for their infrastructure and focusing member efforts to address important regional or local community health needs.

*Need and Proposed Use of the Information:* Performance measures were developed to provide routine data for the program and to enable HRSA to aggregate program data. These measures cover the principal topic areas of interest to the Office of Rural Health Policy, including: (a) Network infrastructure; (b) network collaboration; (c) sustainability; and (d) network assessment. Several measures will be used for this program.

**Summary of Prior Comments and Agency Response**

A 60-day **Federal Register** Notice was published in the **Federal Register** on December 5, 2013, Vol. 78, No. 234; pp. 73200–01. There were no comments.

*Likely Respondents:* The respondents would be Rural Health Network Development Planning grant recipients.

*Burden Statement:* Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

| Form name | Number of respondents | Number of responses per respondent | Total responses | Average burden per response (in hours) | Total burden hours |
|---|---|---|---|---|---|
| Rural Health Network Development Planning Program Performance Improvement and Measurement System Measures | 21 | 1 | 21 | 1 | 21 |
| Total | 21 | 1 | 21 | 1 | 21 |

Dated: March 27, 2014.

**Jackie Painter,**

*Deputy Director, Division of Policy and Information Coordination.*

[FR Doc. 2014–07508 Filed 4–3–14; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

**DATES:** Comments on this ICR should be received no later than May 5, 2014.

**ADDRESSES:** Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

**FOR FURTHER INFORMATION CONTACT:** To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

**SUPPLEMENTARY INFORMATION:**

*Information Collection Request Title:* Client-Level Data Reporting System, OMB No. 0915–0323—Revision.

*Abstract:* The Ryan White HIV/AIDS Program's client-level data reporting system, entitled the Ryan White HIV/AIDS Program Services Report or the Ryan White Services Report (RSR), was created in 2009 by the Health Resources and Services Administration (HRSA). It is designed to collect information from grantees as well as their subcontracted service providers, funded under Parts A, B, C, D, and F Minority AIDS Initiative of Title XXVI of the Public Health Service Act, as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Ryan White HIV/AIDS Program). The Ryan White HIV/AIDS Program provides entities funded by the program with flexibility to respond effectively to the changing HIV epidemic, with an emphasis on providing life-saving and life-extending services for people living with HIV across this country, as well as targeting resources to areas that have the greatest needs.

*Need and Proposed Use of the Information:* All parts of the Ryan White HIV/AIDS Program specify HRSA's responsibilities in administering grant funds, allocating funds, evaluating programs for the populations served, and improving quality of care. Accurate records of the providers receiving Ryan White HIV/AIDS Program funding, the clients served, and services provided continue to be critical issues for the implementation of the legislation and are necessary for HRSA to fulfill its responsibilities.

The RSR provides data on the characteristics of Ryan White HIV/AIDS Program-funded grantees, their contracted service providers, and the clients served with program funds. The RSR is intended to support clinical quality management, performance measurement, service delivery, and client monitoring at the systems and client levels. The reporting systems consist of two online data forms, the Grantee Report and the Service Provider Report, as well as a data file containing the client-level data elements. Data are submitted annually.

The statute specifies the importance of grantee accountability and linking performance to budget. The RSR is used to ensure compliance with the requirements of the statute, to evaluate the progress of programs, to monitor grantee and provider performance, and to meet reporting responsibilities to the Department, Congress, and OMB.

In addition to meeting the goal of accountability to Congress, clients, advocacy groups, and the general public, information collected through the RSR is critical for HRSA, state and local grantees, and individual providers to assess the status of existing HIV related service delivery systems, investigate trends in service utilization, and identify areas of greatest need.

On April 11, 2012, a memo from the Secretary of the Department of Health and Human Services (HHS) directed HRSA, along with other Health and Human Services Operating Divisions (OpDivs) to work together to: (1) Identify seven common core HIV/AIDS indicators; (2) develop implementation plans to deploy these indicators; and (3) streamline data collection; and reduce reporting by at least 20 to 25 percent. In November 2012, the HIV/AIDS Indicators Implementation Group (HAIIG) comprised of representatives from HHS OpDivs, the Department of Housing and Urban Development, the Veterans' Health Administration, and community partners successfully identified the required common core HIV/AIDS indicators.

Revisions to the RSR are required to support implementation of the core indicators, streamline data collection, and reduce reporting burden. Nine data elements will be deleted from the RSR and 22 variables will be modified to reduce reporting burden. Two new data elements will be added to the RSR: (1) Date of client's confidential confirmatory HIV test with a positive result in the reporting period; and (2) date of client's first outpatient ambulatory medical care visit after positive HIV test. These data elements are required to deploy the *Linkage to HIV Medical Care* core indicator. Another data element, *Sex at Birth,* defined to the biological sex assigned to the client at birth, will be added to align with variables collected by other HHS OpDivs.

In addition to the new data elements noted above, other new variables will be added to the RSR to address provisions set forth in Section 4302 of the Affordable Care Act. The Affordable Care Act includes several provisions aimed at eliminating health disparities in America. Section 4302 (Understanding health disparities: Data Collection and Analysis) of the Affordable Care Act focuses on the standardization, collection, analysis, and reporting of health disparities data. Section 4302 requires the Secretary of HHS to establish data collection standards for race, ethnicity, and sex. The race/ethnicity data elements include reporting of Hispanic, Asian, and Native Hawaiian/Pacific Islander subgroups. The categories for HHS data standards for race and ethnicity are based on the disaggregation of the OMB standard used in the American Community Survey (ACS) and the 2000 and 2010 Decennial Census. The subgroup categories can be rolled-up to the OMB standard. These new data elements will be used in data analysis intended to identify and understand health disparities.

*Likely Respondents:* Ryan White HIV/AIDS Program Part A, Part B, Part C, and Part D grantees and their contracted service providers.

*Burden Statement:* Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

| Form name | Number of respondents | Number of responses per respondent | Total responses | Average burden per response (in hours) | Total burden hours |
|---|---|---|---|---|---|
| Grantee Report | 595 | 1 | 595 | 7 | 4,165 |
| Provider Report | 1793 | 1 | 1793 | 17 | 30,481 |
| Client Report | 1312 | 1 | 1312 | 67 | 87,904 |
| Total | 3700 | | 3700 | 91 | 122,550 |

Dated: March 26, 2014.

**Jackie Painter,**

*Deputy Director, Division of Policy and Information Coordination.*

[FR Doc. 2014–07491 Filed 4–3–14; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Notice of Supplemental Funding Opportunity

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Notice of Supplemental Funding Opportunity: Secretary's Minority AIDS Initiative Funding to Increase HIV Prevention and Care Service Delivery among Health Centers Serving High HIV Prevalence Jurisdictions.

**SUMMARY:** Funded in part by the Secretary's Minority AIDS Initiative Fund (SMAIF), as set forth in the Consolidated Appropriations Act of 2014, Public Law 113–76, H.R. 3547–376, a supplemental funding opportunity will be available in June 2014, for certain existing Health Center Program grantees funded under Section 330 of the Public Health Service (PHS) Act, as amended (42 U.S.C. 254b). This supplemental funding opportunity is one facet of a partnership between the Centers for Disease Control and Prevention (CDC) and the Health Resources and Services Administration, Bureau of Primary Health Care (HRSA, BPHC), which will encourage collaboration between Health Center Program grantees in geographic areas of high HIV/AIDS unmet need among racial/ethnic minorities and state health departments to increase and improve HIV service delivery within their primary care programs.

Under *Secretary's Minority AIDS Initiative Funding to Increase HIV Prevention and Care Service Delivery among Health Centers Serving High HIV Prevalence Jurisdictions* (CDC–RFA–PS14–1410), CDC will fund approximately four state health departments through a competitive application process among nine state health departments (Alabama, California, Florida, Maryland, Massachusetts, Michigan, New York, South Carolina, and Texas) that have been identified as eligible to apply for funding. State health department awardees must collaborate with Health Center Program grantees identified in their applications to increase and improve HIV service delivery among racial/ethnic minorities. Health Center Program grantees identified in awarded health department applications may subsequently apply for supplemental funding from HRSA for their participation in this collaboration.

HRSA will award 12–24 supplemental awards ranging in amount from $250,000 to $500,000 to existing Health Center Program grantees identified by state health departments as collaborative partners in their applications for grant funding under *Secretary's Minority AIDS Initiative Funding to Increase HIV Prevention and Care Service Delivery among Health Centers Serving High HIV Prevalence Jurisdictions* (CDC–RFA–PS14–1410). This supplemental funding will support activities currently in scope of health center projects, including health center workforce development, infrastructure development, HIV service delivery across the HIV care continuum, and the development of sustainable partnerships with state health departments.

**FOR FURTHER INFORMATION CONTACT:** Joanne Galindo or Jennifer Clarke, Office of Policy and Program Development, Bureau of Primary Health Care, Health Resources and Services Administration, 5600 Fishers Lane, Room 17C–05, Rockville, MD 20857; telephone 301–594–4300.

Dated: March 28, 2014.

**Mary K. Wakefield,**

*Administrator.*

[FR Doc. 2014–07490 Filed 4–3–14; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Request for Nominations: Advisory Committee on Training in Primary Care Medicine and Dentistry

**AGENCY:** Health Resources and Services Administration (HRSA), HHS.

**ACTION:** Notice.

**SUMMARY:** The Health Resources and Services Administration (HRSA) is requesting nominations to fill eight vacancies on the Advisory Committee on Training in Primary Care Medicine and Dentistry (ACTPCMD).

**DATES:** Nominations for ACTPCMD must be submitted by May 30, 2014.

**ADDRESSES:** All nominations should be submitted by email to Shane Rogers, Designated Federal Official, at *srogers@hrsa.gov,* or mailed to: Shane Rogers, ACTPCMD, Bureau of Health Professions, HRSA, 5600 Fishers Lane, Room 9A–27, Rockville, Maryland 20857, no later than May 30, 2014.

**FOR FURTHER INFORMATION CONTACT:** Shane Rogers, Designated Federal Official, ACTPCMD, Bureau of Health Professions, HRSA, 5600 Fishers Lane, Room 9A–27, Rockville, Maryland 20857, *srogers@hrsa.gov,* 301–443–5260.

**SUPPLEMENTARY INFORMATION:** A copy of the current committee membership, charter, reports and other publications can be obtained by accessing the ACTPCMD Web site at: *http://www.hrsa.gov/advisorycommittees/bhpradvisory/actpcmd/index.html.*

The ACTPCMD, authorized by section 749 (42 U.S.C. 293l) of the Public Health Service (PHS) Act, as amended by section 5103(d) and re-designated by section 5303 of the Affordable Care Act, provides advice and recommendations on policy and program development to the Secretary, and is responsible for submitting an annual report to the Secretary and Congress concerning the activities under Sections 747 and 748 of the Public Health Service Act (PHS Act), as amended. In addition, the ACTPCMD is responsible for developing, publishing, and implementing performance measures and longitudinal evaluations, as well as recommending appropriation levels for programs under Part C of Title VII of the PHS Act, as amended.

The ACTPCMD consists of 17 members appointed by the Secretary. The Secretary appoints members from practicing health professionals engaged in training; leaders from health professions organizations; faculty from health professions educational institutions; and health professionals from public or private teaching hospitals and/or community-based settings.

HRSA is seeking nominees that can represent the following health professions disciplines: Family Medicine (allopathic and osteopathic), General Internal Medicine, General Pediatrics, General and Pediatric Dentistry, Dental Hygiene, Physician Assistants, and Advanced Practice Nursing.

Interested persons and organizations may nominate one or more qualified persons for membership. Self-nominations are accepted. Please furnish each nominee's curriculum vitae (CV) and a completed ACTPCMD Applicant Information Form, which can be found at: *http://www.hrsa.gov/advisorycommittees/bhpradvisory/actpcmd/index.html,* or obtained by contacting Mr. Shane Rogers at *srogers@hrsa.gov* or 301–443–5260. Personal letters of interest from the nominees and organizational letters of support are optional.

If selected, a member must submit an Office of Government Ethics (OGE) 450 Confidential Financial Disclosure Form within thirty (30) days of entrance on duty. Members will receive a stipend for each official meeting day of the committee, as well as per diem and travel expenses as authorized by section 5 U.S.C. 5703 for persons employed intermittently in government service. Appointments shall be made without discrimination on the basis of age, ethnicity, gender, sexual orientation, cultural, religious, socioeconomic, or disability status. Selected candidates will be invited to serve a term of no less than 3 years.

Dated: March 26, 2014.

**Jackie Painter,**

*Deputy Director, Division of Policy and Information Coordination.*

[FR Doc. 2014–07506 Filed 4–3–14; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HOMELAND SECURITY

**[Docket No. DHS–2013–0083]**

### The Critical Infrastructure Partnership Advisory Council

**AGENCY:** National Protection and Programs Directorate, DHS.

**ACTION:** Notice of renewal of Critical Infrastructure Partnership Advisory Council charter and quarterly membership update.

**SUMMARY:** The Department of Homeland Security (DHS) announced the establishment of the Critical Infrastructure Partnership Advisory Council (CIPAC) in a **Federal Register** Notice (71 FR 14930–14933) dated March 24, 2006, which identified the purpose of CIPAC, as well as its membership. This notice provides: (i) Notice of the renewal of the CIPAC charter; (ii) quarterly CIPAC membership updates; (iii) instructions on how the public can obtain the CIPAC membership roster and other information on the council; and (iv) information on recently completed CIPAC meetings.

**FOR FURTHER INFORMATION CONTACT:** Larry May, Designated Federal Officer, Critical Infrastructure Partnership Advisory Council, Sector Outreach and Programs Division, Office of Infrastructure Protection, National Protection and Programs Directorate, U.S. Department of Homeland Security, 245 Murray Lane, Mail Stop 0607, Arlington, VA 20598–0607; telephone: (703) 603–5070; email: *CIPAC@dhs.gov.*

*Responsible DHS Official:* Larry May, Designated Federal Officer for the CIPAC.

**SUPPLEMENTARY INFORMATION:**

*Purpose and Activity:* The CIPAC facilitates interaction between government officials and representatives of the community of owners and/or operators for each of the critical infrastructure sectors defined by Presidential Policy Directive 21 and identified in *National Infrastructure Protection Plan 2013: Partnering for Critical Infrastructure Security and Resilience.* The scope of activities covered by the CIPAC includes: Planning; coordinating among government and critical infrastructure owner and operator security partners; implementing security program initiatives; conducting operational activities related to critical infrastructure protection security measures, incident response, recovery, and infrastructure resilience; reconstituting critical infrastructure

assets and systems for both manmade and naturally occurring events; and sharing threat, vulnerability, risk mitigation, and infrastructure continuity information.

*Organizational Structure:* The National Infrastructure Protection Plan organizes the critical infrastructure community into 16 critical infrastructure sectors. Each of these sectors has a Government Coordinating Council (GCC) whose membership includes: (i) A lead Federal agency that is defined as the Sector-Specific Agency; (ii) all relevant Federal, State, local, tribal, and/or territorial government agencies (or their representative bodies) whose mission interests also involve the scope of the CIPAC activities for that particular sector; and (iii) a Sector Coordinating Council (SCC) whose membership includes critical infrastructure owners and/or operators or their representative trade associations.

*CIPAC Membership:* CIPAC Membership may include:

(i) Critical Infrastructure (CI) owner and operator members of a DHS-recognized SCC, including their representative trade associations or equivalent organization members of an SCC as determined by the SCC.

(ii) Federal, State, local, and tribal governmental entities comprising the members of the GCC for each sector, including their representative organizations, members of the State, Local, Tribal and Territorial Government Coordinating Council, and representatives of other federal agencies with responsibility for CI activities.

CIPAC membership is organizational. Multiple individuals may participate in CIPAC activities on behalf of a member organization as long as member representatives are not federally registered lobbyists.

*Notice of CIPAC Renewal:* The Secretary of Homeland Security extended the CIPAC charter on March 18, 2014, for a period of two years. The current CIPAC charter reflecting the Secretary's action is available on the CIPAC Web site (*http://www.dhs.gov/cipac*).

*CIPAC Membership Roster and Council Information:* The current roster of CIPAC members is published on the CIPAC Web site (*http://www.dhs.gov/cipac*) and is updated as the CIPAC membership changes. Members of the public may visit the CIPAC Web site at any time to view current CIPAC membership, as well as the current and historic lists of CIPAC meetings and agendas.

**Larry L. May,**

*Designated Federal Officer for the CIPAC.*

[FR Doc. 2014–07482 Filed 4–3–14; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–3370–EM; Docket ID FEMA–2014–0003]**

### Washington; Emergency and Related Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of an emergency for the State of Washington (FEMA–3370–EM), dated March 24, 2014, and related determinations.

**DATES:** *Effective Date:* March 24, 2014.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated March 24, 2014, the President issued an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the State of Washington resulting from flooding and mudslides beginning on March 22, 2014, and continuing, is of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (''the Stafford Act''). Therefore, I declare that such an emergency exists in the State of Washington.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives and to protect property and public health and safety, and to lessen or avert the threat of a catastrophe in the designated area. Specifically, you are authorized to provide assistance for emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program.

Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs. In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Michael J. Hall, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

The following areas of the State of Washington have been designated as adversely affected by this declared emergency:

Snohomish County for emergency protective measures (Category B), limited to direct federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2014–07566 Filed 4–3–14; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–3370–EM; Docket ID FEMA–2014–0003]**

### Washington; Amendment No. 1 to Notice of an Emergency Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of an emergency declaration for the State of Washington (FEMA–3370–EM), dated March 24, 2014, and related determinations.

**DATES:** *Effective Date:* March 28, 2014.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** The notice of an emergency declaration for the State of Washington is hereby amended to include grant assistance for the area determined to have been adversely affected by the event declared an emergency by the President in his declaration of March 24, 2014.

Snohomish County for emergency protective measures [Category B], including direct federal assistance, under the Public Assistance program (already designated for emergency protective measures [Category B], limited to direct federal assistance, under the Public Assistance program).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2014–07592 Filed 4–3–14; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–4129–DR; Docket ID FEMA–2014–0003]**

### New York; Amendment No. 4 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for State of New York (FEMA–4129–DR), dated July 12, 2013, and related determinations.

**DATES:** *Effective Date:* January 20, 2014.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, James N. Russo, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Regis Leo Phelan as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2014–07583 Filed 4–3–14; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–4166–DR; Docket ID FEMA–2014–0003]**

### South Carolina; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of South Carolina (FEMA–4166–DR), dated March 12, 2014, and related determinations.

**DATES:** *Effective Date:* March 12, 2014.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated March 12, 2014, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of South Carolina resulting from a severe winter storm during the period of February 10–14, 2014, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of South Carolina.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Joe M. Girot, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of South Carolina have been designated as adversely affected by this major disaster:

Aiken, Allendale, Bamberg, Barnwell, Berkeley, Calhoun, Chesterfield, Clarendon, Colleton, Dillon, Dorchester, Edgefield, Florence, Georgetown, Hampton, Horry, Marion, Orangeburg, Saluda, Sumter, and Williamsburg Counties for Public Assistance.

All counties within the State of South Carolina are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially

Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2014–07581 Filed 4–3–14; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–4165–DR; Docket ID FEMA–2014–0003]**

### Georgia; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of Georgia (FEMA–4165–DR), dated March 6, 2014, and related determinations.

**DATES:** *Effective Date:* March 6, 2014.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated March 6, 2014, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Georgia resulting from a severe winter storm during the period of February 10–14, 2014, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Georgia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, W. Michael Moore, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Georgia have been designated as adversely affected by this major disaster:

Baldwin, Bulloch, Burke, Butts, Candler, Carroll, Columbia, Coweta, Dade, Emanuel, Fayette, Fulton, Gilmer, Glascock, Hancock, Haralson, Heard, Jasper, Jefferson, Jenkins, Johnson, Jones, Lamar, McDuffie, Meriwether, Monroe, Morgan, Newton, Pickens, Pike, Richmond, Screven, Spalding, Upson, Walker, Warren, Washington, Whitfield, and Wilkes Counties for Public Assistance.

All counties within the State of Georgia are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2014–07573 Filed 4–3–14; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[OMB Control Number 1615–0124]**

### Agency Information Collection Activities: Consideration of Deferred Action for Childhood Arrivals, Form I–821D; Revision of a Currently Approved Collection

**ACTION:** 30-Day Notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on December 18, 2013, at 78 FR 76636, allowing for a 60-day public comment period. USCIS did receive multiple comments in connection with the 60-day notice. The comments, and USCIS' responses, are discussed within the Supporting Statement that can be found with the documents submitted to OMB in support of this proposed collection of information.

**DATES:** The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until May 5, 2014. This process is conducted in accordance with 5 CFR 1320.10.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov*. Comments may also be submitted via fax at (202) 395–5806. All submissions received must include the agency name and the OMB Control Number 1615–0124.

**SUPPLEMENTARY INFORMATION:**

#### Comments

**Note:** The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies

should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Consideration of Deferred Action for Childhood Arrivals.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–821D; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The information collected on this form is used by USCIS to determine eligibility of certain individuals who were brought to the United States as children and meet the following guidelines to be considered for deferred action for childhood arrivals:

1. Was under the age of 31 as of June 15, 2012;

2. Came to the United States before reaching his or her 16th birthday;

3. Has continuously resided in the United States since June 15, 2007, up to the present time;

4. Was present in the United States on June 15, 2012 and at the time of making his or her request for consideration of deferred action with USCIS;

5. Had no lawful status on June 15, 2012; NOTE: No lawful status on June 15, 2012 means that:

(a) You never had a lawful immigration status on or before June 15, 2012; or

(b) Any lawful immigration status or parole that you obtained prior to June 15, 2012 had expired as of June 15, 2012.

6. Is currently in school, has graduated or obtained a certificate of completion from high school, has obtained a general education development (GED) certificate, or is an honorably discharged veteran of the U.S. Armed Forces or U.S. Coast Guard; and

7. Has not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and does not otherwise pose a threat to national security or public safety.

An individual may be considered for Renewal of DACA if he or she met the guidelines for consideration of Initial DACA up to the present time; and

1. Did not depart the United States on or after August 15, 2012 without advance parole;

2. Has continuously resided in the United States since he or she submitted his or her request for Initial DACA up to the present time; and

3. Has not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and does not otherwise pose a threat to national security or public safety.

These individuals will be considered for relief from removal from the United States or from being placed into removal proceedings as part of the deferred action for childhood arrivals process. Those who submit requests with USCIS and demonstrate that they meet the threshold guidelines may have removal action in their case deferred for a period of two years, subject to renewal (if not terminated), based on an individualized, case by case assessment of the individual's equities. Only those individuals who can demonstrate, through verifiable documentation, that they meet the threshold guidelines will be considered for deferred action for childhood arrivals, except in exceptional circumstances.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Total number of respondents equals 594,602 with the following breakdown: 244,602 respondents responding for initial request via the paper-based Form I–821D at 3 hours per response; and 350,000 respondents responding for the renewal request via paper at 3 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total number of public burden hours associated with this collection is 1,783,806.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140; Telephone 202–272–8377.

Dated: April 1, 2014.

**Laura Dawkins,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2014–07597 Filed 4–3–14; 8:45 am]

**BILLING CODE 9111–97–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5750–N–14]**

## Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**FOR FURTHER INFORMATION CONTACT:** Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7262, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

**SUPPLEMENTARY INFORMATION:** In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: March 27, 2014

**Mark Johnston,**

*Deputy Assistant Secretary for Special Needs.*

[FR Doc. 2014–07272 Filed 4–3–14; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R8–ES–2014–N043; FF08E00000–FXES11120800000–145]**

## Proposed Low-Effect Habitat Conservation Plan for the California Red-Legged Frog, Sonoma County, California

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; receipt of permit application, proposed habitat conservation plan; request for comment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), have received an application from Bradley Jacobs (applicant) for a 5-year incidental take permit under the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for ''take'' of one listed animal, the California red-legged frog. The applicant would implement a conservation program to minimize and mitigate the project activities, as described in the applicant's low-effect habitat conservation plan (HCP). We request comments on the applicant's application and HCP, and our preliminary determination that the HCP qualifies as a ''low-effect'' habitat conservation plan, eligible for a categorical exclusion under the National Environmental Policy Act of 1969, as amended (NEPA). We discuss our basis for this determination in our environmental action statement (EAS), also available for public review.

**DATES:** To ensure consideration, please send your written comments by May 5, 2014. We will make the final permit decision no sooner than May 5, 2014.

**ADDRESSES:** *Submitting Comments:* Please address written comments to Stephanie Jentsch, Coast Bay Forest Foothills Division, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W–2605, Sacramento, CA 95825. Alternatively, you may send comments by facsimile to (916) 414–6713.

*Reviewing Documents:* You may obtain copies of the permit application, HCP, and EAS from the individuals in **FOR FURTHER INFORMATION CONTACT,** or from the Sacramento Fish and Wildlife Office Web site at *http://www.fws.gov/sacramento.* Copies of these documents are also available for public inspection, by appointment, during regular business hours, at the Sacramento Fish and Wildlife Office.

**FOR FURTHER INFORMATION CONTACT:** Mike Thomas, Chief, Conservation Planning Division, or Eric Tattersall, Deputy Assistant Field Supervisor, at the address shown above or at (916) 414–6600 (telephone). If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:**

### Introduction

We have received an application from Bradley Jacobs (applicant) for a 5-year incidental take permit under the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for ''take'' of one listed animal, the California red-legged frog. The applicant would implement a conservation program to minimize and mitigate the project activities, as described in the applicant's low-effect habitat conservation plan (HCP). We request comments on the applicant's application and HCP, and our preliminary determination that the HCP qualifies as a ''low-effect'' habitat conservation plan, eligible for a categorical exclusion under the National Environmental Policy Act of 1969, as amended (NEPA). We discuss our basis for this determination in our environmental action statement (EAS), also available for public review.

### Background Information

Section 9 of the Act (16 U.S.C. 1531–1544 et seq.) and Federal regulations (50 CFR 17) prohibit the taking of fish and wildlife species listed as endangered or threatened under section 4 of the Act. Take of federally listed fish or wildlife is defined under the Act as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or attempt to engage in such conduct. The term ''harass'' is defined in the regulations as to carry out actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3). The term ''harm'' is defined in the regulations as significant habitat modification or degradation that results in death or injury of listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). However, under specified circumstances, the Service may issue permits that allow the take of federally listed species, provided that the take that occurs is incidental to, but not the purpose of, an otherwise lawful activity.

Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32, respectively. Section 10(a)(1)(B) of the Act contains provisions for issuing such incidental take permits to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met:

(1) The taking will be incidental;

(2) The applicants will, to the maximum extent practicable, minimize and mitigate the impact of such taking;

(3) The applicants will develop a proposed HCP and ensure that adequate funding for the HCP will be provided;

(4) The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and

(5) The applicants will carry out any other measures that the Service may require as being necessary or appropriate for the purposes of the HCP.

### Proposed Project

The draft HCP addresses potential effects to the California red-legged frog that may result from proposed activities, and the applicant seeks incidental take authorization for covered activities within 8.5 acres located at 24129 Turkey Road, Sonoma County, California. The federally threatened California red-legged frog (*Rana draytonii*) will be the only covered species in the applicant's proposed HCP.

The applicant would seek incidental take authorization for this one covered species and would receive assurances under our ''No Surprises'' regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)).

*Proposed Covered Activities*

The following actions are proposed as the ''Covered Activities'' under the HCP: Approximately 4.75 acres of upland grassland habitat for California red-legged frog will be developed with a residence and vineyard, and 0.15 acre of grassland will be temporarily disturbed to install utilities. This will include the construction of an approximately 3,500-square-foot house, construction of a 1,800-square-foot agricultural building, construction of a gravel road and turn-around, the installation of a sewage disposal system, and the planting of a 4.5-acre vineyard within the 8.5-acre undeveloped site. The applicant seeks a 5-year permit to cover the activities associated with this proposed development within the 8.5-acre site (the permit area).

*Proposed Mitigation Measures*

The applicant proposes to avoid, minimize, and mitigate the effects to the covered species associated with the Covered Activities by fully implementing the HCP. The following

mitigation and minimization measures will be implemented:

- Purchase of 0.75-acres of California red-legged frog credits at a Service-approved conservation bank;
- A pre-construction survey by a qualified biologist prior to start of work;
- An employee education program;
- Presence of an on-site biological monitor during initial grading and vegetation clearing;
- Survey of equipment and trenches by a biological monitor prior to start of work each day;
- Implementation of an erosion and sediment control plan that does not use materials that could entrap or injure California red-legged frogs;
- Implementation of Best Management Practices to prevent any construction debris or sediment from impacting adjacent habitat;
- Limiting access routes and staging areas to the minimum necessary;
- Storing food-related trash in sealed containers and removing trash every 3 days;
- Prohibiting pets in the project site during construction;
- Enforcing a speed limit of 15 miles per hour on dirt roads;
- Maintaining all equipment to prevent leaks;
- Storing hazardous materials in sealed containers in a designated location at least 200 feet from aquatic habitat;
- Conducting grading between April 15 and October 15;
- Re-vegetating temporarily disturbed areas with appropriate native seed mixtures.

*Proposed Action and Alternatives*

Our proposed action (see below) is approving the applicant's HCP and issuance of an incidental take permit for the applicant's Covered Activities. As required by the Act, the applicant's HCP considers alternatives to the take under the proposed action. The HCP considers the environmental consequences of two alternatives to the proposed action: (1) The No Action Alternative; and (2) the Reduced Development Alternative.

No-Action Alternative

Under the No-Action Alternative, we would not issue an incidental take permit; the applicant would not build the proposed residence and vineyard; the project area would remain undeveloped; and the applicant would not implement proposed mitigation measures. While this No-Action Alternative would avoid take of covered-species, it is considered infeasible because it would result in unnecessary economic burden on the applicant. It also could result in the transfer of the parcel to a party that would fully develop the property without maintaining any habitat on site. For these reasons, the No-Action Alternative has been rejected.

Reduced Development Alternative

Under the Reduced Development Alternative, the access roadway and vineyard would remain the same as in the proposed action, but the proposed structures would be reduced in size, thereby reducing the total amount of grassland developed. The Service would issue a permit, and the applicant would implement the proposed mitigation measures. While this Reduced Development Alternative would reduce the loss of grassland habitat, it would still potentially result in take of the California red-legged frog, and it would not reduce the project footprint to a biologically meaningful extent. In addition, this alternative would require the employment of a vineyard management company, resulting in unnecessary economic burden to the applicant and in increased traffic in the permit area. For these reasons, the Reduced Development Alternative has been rejected.

Proposed Action

Under the Proposed Action Alternative, we would issue an incidental take permit for the applicant's proposed project, which includes the activities described above. The Proposed Action Alternative would result in the permanent loss of 0.25-acres of upland habitat for California red-legged frog that would be converted to buildings or roads. Approximately 0.15-acres of upland habitat would be temporarily disturbed but would then be reseeded to grassland. An additional 4.5 acres of grassland would be converted to vineyard, thereby decreasing the quality of upland habitat for California red-legged frog in the permit area. To mitigate for these effects, the applicant proposes to purchase 0.75-acres of credits for California red-legged frog at a Service-approved conservation bank. In addition, the on-site pond and surrounding grassland in the northwestern corner of the property will not be developed and will be managed according to a Service-approved plan that would improve habitat conditions for California red-legged frog.

**National Environmental Policy Act**

As described in our EAS, we have made the preliminary determination that approval of the proposed HCP and issuance of the permit would qualify as a categorical exclusion under NEPA (42 U.S.C. 4321–4347 et seq.), as provided by NEPA implementing regulations in the Code of Federal Regulations (40 CFR 1500.5(k), 1507.3(b)(2), 1508.4), by Department of Interior regulations (43 CFR 46.205, 46.210, 46.215), and by the Department of the Interior Manual (516 DM 3 and 516 DM 8). Our EAS found that the proposed HCP qualifies as a ''low-effect'' habitat conservation plan, as defined by our ''Habitat Conservation Planning and Incidental Take Permitting Process Handbook'' (November 1996).

Determination of whether a habitat conservation plan qualifies as low-effect is based on the following three criteria: (1) Implementation of the proposed HCP would result in minor or negligible effects on federally listed, proposed, or candidate species and their habitats; (2) implementation of the proposed HCP would result in minor or negligible effects on other environmental values or resources; and (3) impacts of the HCP, considered together with the impacts of other past, present, and reasonably foreseeable projects, would not result, over time, in cumulative effects to environmental values or resources that would be considered significant. Based upon the preliminary determinations in the EAS, we do not intend to prepare further NEPA documentation. We will consider public comments when making the final determination on whether to prepare an additional NEPA document on the proposed action.

**Public Comments**

We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on this notice. We particularly seek comments on the following:

(1) Biological information concerning the species;

(2) Relevant data concerning the species;

(3) Additional information concerning the range, distribution, population size, and population trends of the species;

(4) Current or planned activities in the subject area and their possible impacts on the species; and

(5) Identification of any other environmental issues that should be considered with regard to the proposed transmission line and permit action.

You may submit your comments and materials by one of the methods listed above in **ADDRESSES**. Comments and materials we receive, as well as supporting documentation we used in preparing the EAS, will be available for public inspection by appointment, during normal business hours, at our

office (see **FOR FURTHER INFORMATION CONTACT**).

**Public Availability of Comments**

Before including your address, phone number, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—might be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Next Steps**

We will evaluate the permit application, including the HCP, and comments we receive to determine whether the application meets the requirements of section 10(a) of the Act. If the requirements are met, we will issue a permit to the applicant for the incidental take of the California red-legged frog from the implementation of the covered activities described in the Low-Effect Habitat Conservation Plan for California Red-legged Frog, Level 1 New Vineyard, 24129 Turkey Road, Sonoma County, California. We will make the final permit decision no sooner than 30 days after publication of this notice in the **Federal Register**.

**Authority**

We publish this notice under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321–4347 et seq.; NEPA), and its implementing regulations in the Code of Federal Regulations (CFR) at 40 CFR 1500–1508, as well as in compliance with section 10(c) of the Endangered Species Act (16 U.S.C. 1531–1544 et seq.; Act).

Dated: March 31, 2014.

**Jennifer M. Norris,**

*Field Supervisor, Sacramento Fish and Wildlife Office, Sacramento, California.*

[FR Doc. 2014–07521 Filed 4–3–14; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–IMR–GRCA–0014472; PPWONRADE2, PMP00EI05.YP0000, 13XP103905]**

### Environmental Impact Statement for a Bison Management Plan, Grand Canyon National Park, Arizona

**AGENCY:** National Park Service, Department of the Interior.

**ACTION:** Notice of Intent.

**SUMMARY:** Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the National Park Service (NPS) is preparing an Environmental Impact Statement (EIS) for a plan to address the impacts of the current abundance, distribution, and movement of bison on the natural and cultural resources of the North Rim of Grand Canyon National Park (GRCA).

**DATES:** Interested individuals, organizations, and agencies are encouraged to provide written comments regarding the scope of issues to be addressed in the EIS. To be most helpful to the planning process, the NPS requests comments be submitted by June 3, 2014. The NPS intends to hold public scoping meetings on the Bison Management Plan EIS during this period and has tentatively identified the following locations for the meetings: Kanab, Utah; Flagstaff, Arizona, and Phoenix, Arizona. Specific dates, times, and locations will be made available via a press release to local media, a public scoping newsletter to be mailed or emailed to interested parties, and on the NPS's Planning, Environment and Public Comment (PEPC) Web site at *http://parkplanning.nps.gov/grca_bison_eis*. The NPS will provide additional opportunities for the public to offer written comments upon publication of the draft EIS.

**ADDRESSES:** Information will be available for public review online at *http://parkplanning.nps.gov/grca_bison_eis;* in the NPS and USFS offices at 1824 Thompson Street, Flagstaff, Arizona 86001; the USFS North Kaibab Ranger District offices at 430 South Main Street, Fredonia, Arizona 86022; and in the Arizona Game and Fish Department offices at 3500 South Lake Mary Road, Flagstaff, Arizona 86001.

**SUPPLEMENTARY INFORMATION:** A herd of bison was brought to the Grand Canyon region in the early 1900's as part of a private bison-cattle breeding experiment. The herd was eventually sold to the state of Arizona in 1925 and subsequently came under the jurisdiction of the Arizona Game and Fish Department (AGFD). In 1950, the AGFD (through an agreement with the U.S. Forest Service ((USFS)) established the House Rock Wildlife Area (HRWA) near GRCA as a place for the bison to reside. The AGFD managed the herd at a stable level (around 100 animals) through annual roundups and culling until the early 1970s, when they transitioned to public hunting as the sole means of managing the bison population.

Between the late 1990's and 2000, fires in the area created opportunities for the bison herd to move out of the HRWA, onto the Kaibab Plateau of the Kaibab National Forest, and into the park. Initially, bison would return to the HRWA to calve; however, over the past eight years, very few have returned to HRWA and most now spend a majority of their time inside GRCA, with many not leaving the park at all. In the last few years, the abundance, distribution, and movement of bison in and near the park have affected the NPS's ability to conserve the natural and cultural resources on the North Rim of GRCA. In addition, the current situation limits the ability of the AGFD and USFS to meet their goal for managing a huntable, free-ranging bison herd on the Kaibab National Forest. Since 2008, a workgroup consisting of staff from NPS (GRCA), AGFD, and USFS, has identified research needs and administrative and operational challenges of long-term cooperative management. As the lead agency in this planning and EIS process, the NPS has invited the AGFD and the USFS to be cooperating agencies. Ultimately, the NPS selected action will provide the basis for GRCA's participation in a long-term, interagency approach to manage the current and future impacts of bison in the park, while supporting AGFD and USFS goals for a free-ranging bison population on the Kaibab National Forest.

If you wish to comment during the scoping process, you may use any one of several methods. The preferred method for submitting comments is on the NPS PEPC Web site at *http://parkplanning.nps.gov/grca_bison_eis*. You may also mail or hand-deliver your comments to the Superintendent, Grand Canyon National Park, P.O. Box 129, Grand Canyon, Arizona 86023. Comments will also be accepted during public meetings; however, comments in any format (hard copy or electronic) submitted on behalf of others will not be accepted. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**FOR FURTHER INFORMATION CONTACT:** Martha Hahn, Grand Canyon National Park Chief of Science and Resource Management, P.O. Box 129, Grand

Canyon, AZ 86023, or by telephone at (928) 638–7759.

**Authority:** The authority for publishing this notice is contained in 40 CFR 1506.6.

The responsible official for this Notice of Intent is the Regional Director, Intermountain Region, NPS, 12795 West Alameda Parkway, Lakewood, Colorado 80228.

Dated: February 4, 2014.

**Sue E. Masica,**

*Regional Director, Intermountain Region.*

[FR Doc. 2014–07349 Filed 4–3–14; 8:45 am]

**BILLING CODE 4312–CB–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Ocean Energy Management

**[MMAA104000]**

### Outer Continental Shelf (OCS), Gulf of Mexico (GOM), Oil and Gas Lease Sales, Western Planning Area (WPA) Lease Sales 246 and 248

**AGENCY:** Bureau of Ocean Energy Management (BOEM), Interior.

**ACTION:** Notice of Intent (NOI) to Prepare a Supplemental Environmental Impact Statement (EIS) and an Announcement of Scoping Meetings and Comment Period for Proposed Gulf of Mexico OCS Oil and Gas Western Planning Area Lease Sales 246 and 248.

**SUMMARY:** Consistent with the regulations implementing the National Environmental Policy Act, as amended (42 U.S.C. 4321 *et seq.*) (NEPA), BOEM is announcing its intent to prepare a Supplemental EIS for proposed Western Planning Area (WPA) Lease Sales 246 and 248 in the Gulf of Mexico (WPA 246/248 Supplemental EIS). The WPA 246/248 Supplemental EIS will update the environmental and socioeconomic analyses in the *Gulf of Mexico OCS Oil and Gas Lease Sales: 2012–2017; Western Planning Area Lease Sales 229, 233, 238, 246, and 248; Central Planning Area Lease Sales 227, 231, 235, 241, and 247, Final Environmental Impact Statement* (OCS EIS/EA BOEM 2012–019) (2012–2017 WPA/CPA Multisale EIS), *Gulf of Mexico OCS Oil and Gas Lease Sales: 2013–2014; Western Planning Area Lease Sale 233; Central Planning Area Lease Sale 231, Final Supplemental Environmental Impact Statement* (OCS EIS/EA BOEM 2013–0118) (WPA 233/CPA 231 Supplemental EIS), and *Gulf of Mexico OCS Oil and Gas Lease Sales: 2014–2016; Western Planning Area Lease Sales 238, 246, and 248, Final Supplemental Environmental Impact Statement* (OCS EIS/EA BOEM 2014–009) (WPA 238/246/248 Supplemental EIS). The 2012–2017 WPA/CPA Multisale EIS was completed in July 2012. The WPA 233/CPA 231 Supplemental EIS was completed in April 2013. The WPA 238/246/248 Supplemental EIS was completed in March 2014.

The WPA 246/248 Supplemental EIS will supplement the NEPA documents cited above for WPA lease sales in order to consider new circumstances and information arising from, among other things, the *Deepwater Horizon* explosion, oil spill, and response. The WPA 246/248 Supplemental EIS analysis will focus on updating the baseline conditions and potential environmental effects of oil and natural gas leasing, exploration, development, and production in the WPA.

The WPA 246/248 Supplemental EIS analysis will also focus on the potential environmental effects of oil and natural gas leasing, exploration, development, and production in the WPA identified through the Area Identification procedure as the proposed lease sale area. In addition to the no action alternative (i.e., canceling a proposed lease sale), other alternatives may be considered for the proposed WPA lease sales, such as deferring certain areas from the proposed lease sale area.

**DATES:** Comments should be submitted by May 5, 2014 to the address specified in **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** For information on the WPA 246/248 Supplemental EIS, the submission of comments, or BOEM's policies associated with this notice, please contact Mr. Gary D. Goeke, Chief, Environmental Assessment Section, Office of Environment (GM 623E), Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, LA 70123–2394, telephone (504) 736–3233.

**SUPPLEMENTARY INFORMATION:** On August 27, 2012, the Secretary of the Interior approved the OCS Oil & Gas Leasing Program: 2012–2017 (2012–2017 Five-Year Program). This Supplemental EIS will consider the two remaining WPA sales for this 2012–2017 Five-Year Program. Proposed WPA Lease Sales 246 and 248 are tentatively scheduled to be held in 2015 and 2016, respectively. The proposed WPA lease sale area encompasses virtually all of the WPA's 28.58 million acres, with the exception of whole and partial blocks within the boundary of the Flower Garden Banks National Marine Sanctuary.

This **Federal Register** notice is not an announcement to hold a proposed lease sale, but it is a continuation of information gathering and is published early in the environmental review process, in furtherance of the goals of NEPA. The comments received during the scoping comment period will help form the content of the WPA 246/248 Supplemental EIS and will be summarized in presale documentation prepared during the decision making process for proposed WPA Lease Sale 246. If, after completion of the WPA 246/248 Supplemental EIS, the Secretary of the Interior decides to hold a lease sale, then the lease sale area identified in the final Notice of Sale may exclude or defer certain lease blocks from the area offered. However, for purposes of the WPA 246/248 Supplemental EIS and to adequately assess the potential impacts of an areawide lease sale, BOEM is assuming that all unleased blocks may be offered in proposed WPA Lease Sales 246 and 248.

In order to ensure a greater level of transparency during the Outer Continental Shelf Lands Act (OCSLA) stages and tiered NEPA processes of the Five-Year Program, BOEM established an alternative and mitigation tracking table, which is designed to track the receipt and treatment of alternative and mitigation suggestions. Section 4.3.2 of the *Outer Continental Shelf Oil and Gas Leasing Program: 2012–2017; Final Programmatic Environmental Impact Statement* (the Five-Year Program EIS) (*http://www.boem.gov/5-Year/2012-2017/PEIS.aspx*) presented a list of deferral and alternative requests that were received during the development of the Five-Year Program EIS, but were determined to be more appropriately considered at subsequent OCSLA and NEPA stages. The 2012–2017 WPA/CPA Multisale EIS addressed these deferral and alternative requests, but they were ultimately deemed inappropriate for further analysis as separate alternatives or deferrals from those already included and considered in the 2012–2017 WPA/CPA Multisale EIS. In this and future NEPA analyses, BOEM will continue to evaluate whether these or other deferral or alternative requests warrant additional consideration as appropriate. (Please refer to Chapter 2.2.1.2 of the 2012–2017 WPA/CPA Multisale EIS for a complete discussion; *http://www.boem.gov/Environmental-Stewardship/Environmental-Assessment/NEPA/BOEM-2012-019_v1.aspx*.) A key principle at each stage in the NEPA process is to identify how the recommendations for deferral and mitigation requests are being addressed and whether new information or

circumstances favor new or different analytical approaches in response to these requests.

Additionally, BOEM has created a tailored map of the potentially affected area through the Multipurpose Marine Cadastre (MMC) Web site (*http://boem.gov/Oil-and-Gas-Energy-Program/Leasing/Five-Year-Program/Lease-Sale-Schedule/Interactive-Maps.aspx*). The MMC is an integrated marine information system that provides a comprehensive look at geospatial data and ongoing activities and studies occurring in the area being considered. This Web site provides the ability to view multiple data layers of existing geospatial data.

Scoping Process: This NOI also serves to announce the scoping process for identifying issues for the WPA 246/248 Supplemental EIS. Throughout the scoping process, Federal, State, Tribal, and local governments and the general public have the opportunity to help BOEM determine significant resources and issues, impacting factors, reasonable alternatives, and potential mitigating measures to be analyzed in the WPA 246/248 Supplemental EIS, and to provide additional information. BOEM will also use the NEPA commenting process to initiate the section 106 consultation process of the National Historic Preservation Act (16 U.S.C. 470f), as provided for in 36 CFR 800.2(d)(3).

Pursuant to the regulations implementing the procedural provisions of NEPA, BOEM will hold public scoping meetings in Texas and Louisiana on the WPA 246/248 Supplemental EIS. The purpose of these meetings is to solicit comments on the scope of the WPA 246/248 Supplemental EIS. BOEM's scoping meetings will be held at the following places and times:

- Corpus Christi, Texas: Tuesday, April 22, 2014, Springhill Suites, 4331 South Padre Island Drive, Corpus Christi, Texas 78411, one meeting beginning at 1:00 p.m. CDT; and,
- New Orleans, Louisiana: Thursday, April 24, 2014, Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123, one meeting beginning at 1:00 p.m. CDT.

Cooperating Agency: BOEM invites other Federal, State, Tribal, and local governments to consider becoming cooperating agencies in the preparation of the WPA 246/248 Supplemental EIS. We invite qualified government entities to inquire about cooperating agency status for the WPA 246/248 Supplemental EIS. Following the guidelines from the Council on Environmental Quality (CEQ), qualified agencies and governments are those with ''jurisdiction by law or special expertise.'' Potential cooperating agencies should consider their authority and capacity to assume the responsibilities of a cooperating agency and should remember that an agency's role in the environmental analysis neither enlarges nor diminishes the final decision making authority of any other agency involved in the NEPA process. Upon request, BOEM will provide potential cooperating agencies with a written summary of ground rules for cooperating agencies, including time schedules and critical action dates, milestones, responsibilities, scope and detail of cooperating agencies' contributions, and availability of predecisional information. BOEM anticipates this summary will form the basis for a Memorandum of Agreement between BOEM and any cooperating agency. Agencies should also consider the ''Factors for Determining Cooperating Agency Status'' in Attachment 1 to CEQ's January 30, 2002, Memorandum for the Heads of Federal Agencies: *Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act.* These documents are available at the following location on the Internet: *http://energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/G-CEQ-CoopAgenciesImplem.pdf*.

BOEM, as the lead agency, will not provide financial assistance to cooperating agencies. Even if an organization is not a cooperating agency, opportunities will exist to provide information and comments to BOEM during the normal public input stages of the NEPA/EIS process. For further information about cooperating agencies, please contact Mr. Gary D. Goeke at (504) 736–3233.

*Comments:* All interested parties, including Federal, State, Tribal, and local governments, and other organizations and members of the public, may submit written comments on the scope of the WPA 246/248 Supplemental EIS, significant issues that should be addressed, alternatives that should be considered, potential mitigating measures, and the types of oil and gas activities of interest in the proposed WPA lease sale area.

Written scoping comments may be submitted in one of the following ways:

1. In an envelope labeled ''Scoping Comments for the WPA 246/248 Supplemental EIS'' and mailed (or hand delivered) to Mr. Gary D. Goeke, Chief, Environmental Assessment Section, Office of Environment (GM 623E), Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394;

2. Through the regulations.gov web portal: Navigate to *http://www.regulations.gov* and search for ''Oil and Gas Lease Sales: Gulf of Mexico, Outer Continental Shelf; Western Planning Area Lease Sales 246 and 248.'' (**Note:** It is important to include the quotation marks in your search terms.) Click on the ''Comment Now!'' button to the right of the document link. Enter your information and comment, then click ''Submit''; or

3. BOEM's email address: *wpa246@boem.gov*.

Petitions, although accepted, do not generally provide useful information to assist in the development of alternatives, resources, and issues to be analyzed, or impacting factors. BOEM does not consider anonymous comments; please include your name and address as part of your submittal. BOEM makes all comments, including the names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that BOEM withhold their names and/or addresses from the public record; however, BOEM cannot guarantee that we will be able to do so. If you wish your name and/or address to be withheld, you must state your preference prominently at the beginning of your comment. All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public inspection in their entirety.

**Authority:** This NOI is published pursuant to the regulations (40 CFR 1501.7) implementing the provisions of NEPA.

Dated: March 28, 2014.

**Tommy P. Beaudreau,**

*Director, Bureau of Ocean Energy Management.*

[FR Doc. 2014–07514 Filed 4–3–14; 8:45 am]

**BILLING CODE 4310–MR–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–906]**

### Certain Standard Cell Libraries, Products Containing or Made Using the Same, Integrated Circuits Made Using the Same, and Products Containing Such Integrated Circuits: Commission Decision Not To Review Granting Complainant's Motion To Amend the Complaint and Notice of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 10) of the presiding administrative law judge (''ALJ'') granting complainant's motion to amend the complaint and notice of investigation in the above-captioned investigation.

**FOR FURTHER INFORMATION CONTACT:** Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on January 24, 2014, based on a complaint filed by Tela Innovations, Inc. (''Tela'') of Los Gatos, California. 79 FR 4175–76. The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain standard cell libraries, products containing or made using the same, integrated circuits made using the same, and products containing such integrated circuits by reason of infringement of certain claims of U.S. Patent No. 8,490,043. The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named Taiwan Semiconductor Manufacturing Company, Limited of Hsinchu, Taiwan and TSMC North America of San Jose, California (collectively, ''TSMC'') as respondents. The Office of Unfair Import Investigations was also named as a party.

On January 30, 2014, Tela moved to amend the complaint and notice of investigation to add allegations of violation of section 337 by reason of infringement of certain claims of U.S. Patent No. 8,635,583. The Commission investigative attorney and TSMC opposed the motion, and Tela filed a reply to their oppositions.

On March 13, 2014, the ALJ issued the subject ID granting the motion to amend the complaint and notice of investigation. No party petitioned for review of the ID. The Commission has determined not to review this ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

Issued: April 1, 2014.

**Lisa R. Barton,**

*Acting Secretary to the Commission.*

[FR Doc. 2014–07570 Filed 4–3–14; 8:45 am]

**BILLING CODE 7020–02–P**

## LIBRARY OF CONGRESS

### U.S. Copyright Office

**[Docket No. 2012–12]**

### Extension of Comment Period: Orphan Works and Mass Digitization: Request for Additional Comments

**AGENCY:** U.S. Copyright Office, Library of Congress.

**ACTION:** Extension of comment period.

**SUMMARY:** The U.S. Copyright Office is extending the deadline for public comments that address topics listed in the Office's February 10, 2014 Notice of Inquiry and that respond to any issues raised during the public roundtables held in Washington, DC, on March 10–11, 2014.

**DATES:** Comments are now due May 21, 2014 by 5:00 p.m. EDT.

**ADDRESSES:** All comments and reply comments shall be submitted electronically. A page containing a comment form is posted on the Office Web site at *http://www.copyright.gov/orphan/*. The Web site interface requires commenting parties to complete a form specifying name and organization, as applicable, and to upload comments as an attachment via a browser button. To meet accessibility standards, commenting parties must upload comments in a single file not to exceed six megabytes (MB) in one of the following formats: The Portable Document File (PDF) format that contains searchable, accessible text (not an image); Microsoft Word; WordPerfect; Rich Text Format (RTF); or ASCII text file format (not a scanned document). The form and face of the comments must include both the name of the submitter and organization. The Office will post the comments publicly on the Office's Web site exactly as they are received, along with names and organizations. If electronic submission of comments is not feasible, please contact the Office at 202–707–1027 for special instructions.

**FOR FURTHER INFORMATION CONTACT:** Karyn Temple Claggett, Associate Register of Copyrights and Director of Policy and International Affairs by email at *kacl@loc.gov* or by telephone at 202–707–1027; or Catherine Rowland, Senior Counsel for Policy and International Affairs, by email at *crowland@loc.gov* or by telephone at 202–707–1027.

**SUPPLEMENTARY INFORMATION:** On February 10, 2014, the Copyright Office published a Notice of Inquiry announcing public roundtables and inviting additional public comments on potential legislative solutions for orphan works and mass digitization under U.S. copyright law. The Office held its public roundtables on March 10–11, 2014, during which various participants voiced a wide range of opinions. To enable commenters sufficient time to respond to issues raised during the March 2014 roundtables, the Office is extending the time for filing additional comments from April 14, 2014 to May 21, 2014.

Dated: March 31, 2014.

**Karyn Temple Claggett,**

*Associate Register of Copyrights and Director of Policy and International Affairs.*

[FR Doc. 2014–07505 Filed 4–3–14; 8:45 am]

**BILLING CODE 1410–30–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2008–0581; Docket ID 52–038]**

### Nine Mile Point 3 Nuclear Project, LLC and UniStar Nuclear Operating Services, LLC

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Application for combined license; withdrawal.

**SUPPLEMENTARY INFORMATION:** By letter dated September 30, 2008, as supplemented by letter dated November 18, 2008, Nine Mile Point 3 Nuclear Project, LLC, and UniStar Nuclear Operating Services, LLC (UniStar), submitted an application to the U.S. Nuclear Regulatory Commission (NRC) for a combined license (COL) for a single unit of the U.S. Evolutionary Power Reactor (U.S. EPR) in accordance with the requirements contained in Title 10 of the *Code of Federal Regulations* (10 CFR) part 52, ''Licenses, Certifications and Approvals for Nuclear Power Plants.'' This reactor would be identified as Nine Mile Point 3 Nuclear Power Plant (NMP3NPP) and located adjacent to the current Nine Mile Point Nuclear Station, Unit 1 and Unit 2, in Oswego County, New York.

A notice of receipt and availability of this application was previously published in the **Federal Register** (73 FR 63998) on October 28, 2008. On December 19, 2008, a subsequent notice was published in the **Federal Register** (73 FR 77862) announcing the acceptance of the NMP3NPP COL application for docketing in accordance with 10 CFR part 2, ''Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders,'' and 10 CFR part 52. The docket number established for this application is 52–038.

By letter dated December 1, 2009, UniStar requested that the NRC temporarily suspend the COL application review, including any supporting reviews by external agencies, until further notice (Agencywide Documents Access and Management System (ADAMS) Accession No. ML093430638). The NRC granted the suspension. By letter dated November 26, 2013, UniStar requested the NRC to withdraw the NMP3NPP COL application, including the Safeguards/Security Part of the application, from the docket (ADAMS Accession No. ML13333A287). Pursuant to the requirements in 10 CFR part 2, the Commission grants UniStar its request to withdraw the NMP3NPP COL application.

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records are accessible electronically from the ADAMS Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by email to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 31st day of March 2014.

For the Nuclear Regulatory Commission.

**Frank Akstulewicz,**

*Director, Division of New Reactor Licensing, Office of New Reactors.*

[FR Doc. 2014–07580 Filed 4–3–14; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2014–0071]**

### Tornado Missile Protection

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft regulatory issue summary; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is seeking public comment on a draft regulatory issue summary (RIS) that restates regulatory requirements and staff positions on protection from tornado missiles.

**DATES:** Submit comments by June 3, 2014. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0071. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: 3WFN, 06–44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** James Keene, telephone: 301–415–1994, email: *James.Keene@nrc.gov,* or Thomas Alexion, telephone: 301–415–1326, email: *Thomas.Alexion@nrc.gov,* Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**SUPPLEMENTARY INFORMATION:**

#### I. Accessing Information and Submitting Comments

*A. Accessing Information*

Please refer to Docket ID NRC–2014–0071 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0071.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The draft RIS, ''Tornado Missile Protection,'' is available in ADAMS under Accession No. ML13094A421.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

*B. Submitting Comments*

Please include Docket ID NRC–2014–0071 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://*

*www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

**II. Discussion**

The NRC issues RISs to communicate with stakeholders on a broad range of regulatory matters. This may include communicating and restating staff positions on regulatory matters.

The NRC staff has developed draft RIS 201X–XX, ''Tornado Missile Protection,'' to restate regulatory requirements and staff positions on protection from tornado missiles. The draft RIS is available electronically under ADAMS Accession No. ML13094A421.

Dated at Rockville, Maryland, this 31st day of March 2014.

For the Nuclear Regulatory Commission.

**Sheldon D. Stuchell,**

*Acting Chief, Generic Communications Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.*

[FR Doc. 2014–07576 Filed 4–3–14; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 040–06377; NRC–2014–0041]**

## License Amendment Application for Department of the Army, U.S. Armament Research, Development and Engineering Center

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Decommissioning plan, license amendment request; opportunity to comment, request a hearing, and petition for leave to intervene.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has received an application by the Department of the Army, U.S. Armament Research, Development and Engineering Center (ARDEC) for amendment of Materials License No. SUB–348, which authorizes use of radioactive byproduct material for research and development. The amendment would allow ARDEC to begin remediation activities in Area 1222 of the Picatinny Arsenal site to confirm that Area 1222 would meet the requirements for release for unrestricted use. The area would remain a portion of the Picatinny Arsenal site.

**DATES:** Comments must be filed by June 3, 2014. A request for a hearing or petition for leave to intervene must be filed by June 3, 2014.

**ADDRESSES:** You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0041. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: 3WFN–06–44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Laurie A. Kauffman, Division of Nuclear Materials Safety, Region I, U.S. Nuclear Regulatory Commission, 2100 Renaissance Boulevard, Suite 100, King of Prussia, Pennsylvania 19406; telephone: 610–337–5323; fax number: 610–337–5269; email: *Laurie.Kauffman@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

**I. Accessing Information and Submitting Comments**

*A. Accessing Information*

Please refer to Docket ID NRC–2014–0041 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0041.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

*B. Submitting Comments*

Please include Docket ID **NRC–2014–0041** in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

**II. Introduction**

The NRC has received, by letter dated July 23, 2013 (ADAMS Accession No. ML14078A564), a proposed decommissioning plan and license amendment request from the Department of the Army, ARDEC for approval of a decommissioning plan for a portion of its facility located in Picatinny, New Jersey. The amendment provides a decommissioning plan for the radiological survey and subsequent excavation, decontamination, and proper disposal of licensed radioactive material identified within a designated

area of the site. Specifically, the approval of the decommissioning plan would allow ARDEC to begin remediation activities in Area 1222 of the Picatinny Arsenal site to confirm that Area 1222 would meet the requirements for release for unrestricted use. The area would remain a portion of the Picatinny Arsenal site. Materials License No. SUB–348 currently authorizes the license to use radioactive byproduct material for research and development.

An NRC administrative completeness review found the application acceptable for a technical review (ADAMS Accession No. ML13310B861). Prior to approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954 as amended (the Act), and the NRC's regulations. The NRC's findings will be documented in a safety evaluation report and an environmental assessment. The environmental assessment will be the subject of a subsequent notice in the **Federal Register**.

## III. Notice and Solicitation of Comments

In accordance with § 20.1405 of Title 10 of the *Code of Federal Regulation* (10 CFR), the Commission is providing notice and soliciting comments from local and State governments in the vicinity of the site and any Federally-recognized Indian tribe that could be affected by the decommissioning. This notices and solicitation of comments is published pursuant to 10 CFR 20.1405, which provides for publication in the **Federal Register** and in a forum, such as local newspapers, letters to State or local organization, or other appropriate forum, that is readily accessible to individuals in the vicinity of the site. Comments should be provided within 60 days of the date of this notice.

## IV. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this **Federal Register** notice, any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the license amendment request. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the NRC's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth, with particularity, the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition must specifically explain the reasons why intervention should be permitted, with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also include the specific contentions that the requestor/petitioner seeks to have litigated at the proceeding.

For each contention, the petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings that the NRC must make to support the granting of a license amendment in response to the application. The petition must also include a concise statement of the alleged facts or expert opinion that support the contention and on which the requestor/petitioner intends to rely at the hearing, together with references to those specific sources and documents. The petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the petitioner disputes and the supporting reasons for each dispute. If the requestor/petitioner believes that the application for amendment fails to contain information on a relevant matter as required by law, the petitioner must identify each failure and the supporting reasons for the petitioner's belief. Each contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who does not satisfy these requirements for at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Atomic Safety and Licensing Board will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

A State, local governmental body, Federally-recognized Indian tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by June 3, 2014. The petition must be filed in accordance with the filing instructions in the ''Electronic Submission (E-Filing)'' section of this document, and should meet the requirements for petitions for leave to intervene set forth in this section. A State, local governmental body, Federally-recognized Indian tribe, or agency thereof may also have the opportunity to participate under 10 CFR 2.315(c).

If a hearing is granted, any person who does not wish, or is not qualified, to become a party to the proceeding may, in the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by June 3, 2014.

**V. Electronic Submissions (E-Filing)**

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC's guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Dated at King of Prussia, Pennsylvania, this 27th day of March 2014.

For the Nuclear Regulatory Commission.

**Marc S. Ferdas,**

*Chief, Decommissioning and Technical Support Branch, Division of Nuclear Materials Safety, Region I.*

[FR Doc. 2014–07579 Filed 4–3–14; 8:45 am]

**BILLING CODE 7590–01–P**

## OFFICE OF PERSONNEL MANAGEMENT

### Hispanic Council on Federal Employment

**AGENCY:** Office of Personnel Management.

**ACTION:** Cancelling and re-scheduling of Council Meetings.

**SUMMARY:** The Hispanic Council on Federal Employment (Council) is cancelling the April 17, 2014 Council meeting and will hold its remaining 2014 Council meetings on the dates and location shown below. The Council is an advisory committee composed of representatives from Hispanic organizations and senior government officials. Along with its other responsibilities, the Council shall advise the Director of the Office of Personnel Management on matters involving the recruitment, hiring, and advancement of Hispanics in the Federal workforce. The Council is co-chaired by the Chief of Staff of the Office of Personnel Management and the Chair of the National Hispanic Leadership Agenda (NHLA).

The meeting is open to the public. Please contact the Office of Personnel Management at the address shown below if you wish to present material to the Council at any of the meetings. The manner and time prescribed for presentations may be limited, depending upon the number of parties that express interest in presenting information.

**DATES:**

- April 25, 2014 from 2 p.m.–4 p.m.
- June 19, 2014 from 2 p.m.–4 p.m.
- August 21, 2014 from 2 p.m.–4 p.m.
- October 16, 2014 from 2 p.m.–4 p.m.
- December 19, 2014 from 10 a.m.–12 p.m.

*Location:* U.S. Office of Personnel Management, 1900 E St. NW., Washington, DC 20415.

**FOR FURTHER INFORMATION CONTACT:** Veronica E. Villalobos, Director for the Office of Diversity and Inclusion, Office of Personnel Management, 1900 E St. NW., Suite 5H35, Washington, DC 20415. Phone (202) 606–0020 FAX (202) 606–2183 or email at *veronica.villalobos@opm.gov.*

U.S. Office of Personnel Management.

**Katherine Archuleta,**

*Director.*

[FR Doc. 2014–07492 Filed 4–3–14; 8:45 am]

**BILLING CODE 6820–B2–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. IC–31000; File No. 812–14221]**

### MetLife Insurance Company of Connecticut, et al.; Notice of Application

March 31, 2014.

**AGENCY:** Securities and Exchange Commission (''SEC'' or ''Commission'').

**ACTION:** Notice of application for an order approving the substitution of certain securities pursuant to Section 26(c) of the Investment Company Act of 1940, as amended (the ''1940 Act'' or ''Act'') and an order of exemption pursuant to Section 17(b) of the Act from Section 17(a) of the Act.

**APPLICANTS:** MetLife of CT Separate Account Eleven for Variable Annuities (''Separate Account Eleven''), MetLife of CT Separate Account QPN for Variable Annuities (''Separate Account QPN''), MetLife of CT Fund UL for Variable Life Insurance (''Fund UL''), MetLife of CT Fund UL III for Variable Life Insurance (''Fund UL III''), MetLife of CT Separate Account CPPVUL1 (''Separate Account CPPVUL1''), First MetLife Investors Variable Annuity Account One (''Separate Account One''), MetLife Investors USA Separate Account A (''Separate Account A''), Metropolitan Life Separate Account UL (''Separate Account UL''), Metropolitan Life Variable Annuity Separate Account II (''Separate Account II''), Security Equity Separate Account Twenty-Seven (''Separate Account Twenty-Seven''), (collectively, the ''Separate Accounts'') and MetLife Insurance Company of Connecticut (''MetLife of CT''), First MetLife Investors Insurance Company (''First MetLife Investors''), MetLife Investors USA Insurance Company (''MetLife Investors USA'') and Metropolitan Life Insurance Company (''MetLife''), (collectively the ''Insurance Companies''), Met Investors Series Trust (''MIST'') and Metropolitan Series Fund (''Met Series Fund,'' and, together with MIST, the ''Investment Companies'').

The Insurance Companies and the Separate Accounts are referred to herein collectively as the ''Substitution Applicants.'' The Insurance Companies, the Separate Accounts and the Investment Companies are referred to in this notice as the ''Section 17 Applicants.''

**SUMMARY:** *Summary of Application:* The Substitution Applicants seek an order pursuant to Section 26(c) of the 1940 Act, approving the substitution of certain shares of the Trust for shares of other registered investment companies unaffiliated with the Substitution Applicants (the ''Substitutions'') each of which is currently used as an underlying investment option for certain variable annuity contracts (collectively, the ''Contracts''). The Section 17 Applicants seek an order pursuant to Section 17(b) of the 1940 Act exempting them from Section 17(a) of the Act to the extent necessary to permit them to engage in certain in-kind transactions (''In-Kind Transfers'') in connection with the Substitutions.

**DATES:** *Filing Date:* The application was filed on September 30, 2013, and an amended and restated application was filed on February 28, 2014.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving the Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 21, 2014, and should be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

**ADDRESSES:** Secretary, SEC, 100 F Street NE., Washington, DC 20549–1090. Applicants: Applicants c/o Paul G. Cellupica, Chief Counsel—Securities Regulation and Corporate Services, MetLife Group, 1095 Avenue of the Americas, New York, NY 10036 and John Chilton, Esq., Sullivan & Worcester LLP, 1666 K Street NW., Washington, DC 20006.

**FOR FURTHER INFORMATION CONTACT:** Ashley Vroman-Lee, Senior Counsel, or Michael Kosoff, Branch Chief, Division of Investment Management, at (202) 551–6795.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm*, or by calling (202) 551–8090.

### Applicants' Representations

1. MetLife of CT is a stock life insurance company organized in 1863 under the laws of Connecticut and is a wholly-owned subsidiary of MetLife, Inc. MetLife of CT is the depositor and

sponsor of Separate Account Eleven, Separate Account QPN, Fund UL, Fund UL III and Separate Account CPPVUL1. First MetLife Investors is a stock life insurance company organized on December 31, 1992 under the laws of New York. First MetLife Investors is a wholly-owned subsidiary of MetLife, Inc. First MetLife Investors is the depositor and sponsor of Separate Account One. MetLife Investors USA is a stock life insurance company organized on September 13, 1960 under the laws of Delaware. MetLife Investors USA is an indirect wholly-owned subsidiary of MetLife, Inc. MetLife Investors USA is the depositor and sponsor of Separate Account A. MetLife is a stock life insurance company organized in 1868 under the laws of New York. MetLife is the depositor and sponsor of Separate Account UL, Separate Account II and Separate Account Twenty-Seven.

2. Separate Account Eleven, Fund UL, Fund UL III, Separate Account One, Separate Account A, Separate Account UL, Separate Account II, and Separate Account Twenty-Seven are registered under the Act as unit investment trusts for the purpose of funding the Contracts. Security interests under the Contracts have been registered under the Securities Act of 1933.

3. Separate Account QPN is exempt from registration under the Act. Security interests under the Contracts have been registered under the Securities Act of 1933.

4. Separate Account CPPVUL1 serves as a separate account funding vehicle for certain Contracts that are exempt from registration under Section 4(2) of the Securities Act of 1933 and Regulation D thereunder.

5. Although Separate Account QPN and Separate Account CPPVUL1 are exempt from registration under the Act, they would be subject to the investment limitations of Section 12 but for the exclusion contained in Section 12(d)(1)(E) of the Act. To rely on such exclusion, an investment company that is not a registered investment company must, among other things, agree to refrain from substituting a security unless the Commission approves the substitution in the manner provided in Section 26 of the Act.

6. MIST and Met Series Fund are each registered under the Act as open-end management investment companies of the series type, and their securities are registered under the Securities Act of 1933. MetLife Advisers, LLC serves as investment adviser to MIST and Met Series Fund. The investment adviser is an affiliate of the Insurance Companies.

7. MetLife Investors Distribution Company, an affiliate of the Insurance Companies, is the distributor of the Contracts and serves as the principal underwriter of MIST and Met Series Fund.

8. The Contracts permit the applicable Insurance Company, subject to compliance with applicable law, to substitute shares of another investment company for shares of an investment company held by a sub-account of the Separate Accounts. The prospectuses for the Contracts and the Separate Accounts contain appropriate disclosures of this right. File numbers for the Contracts, the Separate Accounts and the Investment Companies are included in the application.

9. Each Insurance Company, on its behalf and on behalf of the Separate Accounts proposes to make certain substitutions of shares of 13 funds (the ''Existing Funds'') held in sub-accounts of its respective Separate Accounts into certain series of MIST and Met Series Fund (the ''Replacement Funds'').

The Substitution Applicants request an order from the Commission pursuant to Section 26(c) of the 1940 Act approving the proposed Substitutions of shares of the following series of the Trust, the Replacement Funds, for shares of the corresponding third party, unaffiliated underlying mutual funds, the Existing Funds, as shown in the following table:

| Existing fund | Replacement fund |
|---|---|
| DWS Capital Growth VIP (Class B) | Jennison Growth Portfolio (Class B). |
| DWS Global Growth VIP (Class B) | Oppenheimer Global Equity Portfolio (Class B). |
| Invesco V.I. American Franchise Fund (Series I and Series II) | T. Rowe Price Large Cap Growth Portfolio (Class A and Class B). |
| Invesco V.I. American Value Fund (Series II) | Invesco Mid Cap Value Portfolio (currently known as Lord Abbett Mid Cap Value Portfolio) (Class B). |
| Invesco V.I. Global Real Estate Fund (Series I and Series II) | Clarion Global Real Estate Portfolio (Class A and Class B). |
| Invesco V.I. Growth and Income Fund (Series I and Series II) | Invesco Comstock Portfolio (Class A and Class B). |
| ClearBridge Variable All Cap Value Portfolio (Class I) | T. Rowe Price Large Cap Value Portfolio (Class E). |
| UIF U.S. Real Estate Portfolio (Class I) | Clarion Global Real Estate Portfolio (Class B). |
| Pioneer Disciplined Value VCT Portfolio (Class II) | MFS® Value Portfolio (Class B). |
| Pioneer Emerging Markets VCT Portfolio (Class II) | MFS® Emerging Markets Equity Portfolio (Class A and Class B). |
| Pioneer Equity Income VCT Portfolio (Class II) | Invesco Comstock Portfolio (Class B). |
| Pioneer Ibbotson Growth Allocation VCT Portfolio (Class II) | MetLife Moderate to Aggressive Allocation Portfolio (Class B). |
| Pioneer Ibbotson Moderate Allocation VCT Portfolio (Class II) | MetLife Moderate Allocation Portfolio (Class B). |

For Existing Funds and Replacement Funds with multiple classes, the application specifies which class of the Replacement Fund will be substituted for each class of an Existing Fund. Comparisons of the investment objectives, principal strategies, principal risks, and performance of the Existing Funds and the Replacement Funds are included in the application.

10. The following tables compare the fees and expenses of the Existing Fund and the Replacement Fund as of December 31, 2012 (A more detailed fee table is included in the application):

FEE AND EXPENSE DATA AS OF DECEMBER 31, 2012

| | Existing fund DWS Capital Growth VIP (Class B) | Replacement fund Jennison Growth Portfolio (Class B) |
|---|---|---|
| Management Fee | 0.37% | 0.61% |
| 12b–1 Fee | 0.25% | 0.25% |
| Other Expenses | 0.21% | 0.03% |

FEE AND EXPENSE DATA AS OF DECEMBER 31, 2012—Continued

| | Existing fund DWS Capital Growth VIP (Class B) | Replacement fund Jennison Growth Portfolio (Class B) |
|---|---|---|
| Total Expenses | 0.83% | 0.89% |
| Waivers | 0.00% | 0.07% |
| Net Expenses | 0.83% | 0.82% |

| | Existing fund DWS Global Growth VIP (Class B) | Replacement fund Oppenheimer Global Equity Portfolio (Class B) |
|---|---|---|
| Management Fee | 0.92% | 0.67% |
| 12b–1 Fee | 0.25% | 0.25% |
| Other Expenses | 0.59% | 0.09% |
| Total Expenses | 1.76% | 1.01% |
| Waivers | 0.37% | 0.02% |
| Net Expenses | 1.39% | 0.99% |

| | Existing fund Invesco V.I. American Franchise Fund (Series I) | Existing fund Invesco V.I. American Franchise Fund (Series II) | Replacement fund T. Rowe Price Large Cap Growth Portfolio (Class A) | Replacement fund T. Rowe Price Large Cap Growth Portfolio (Class B) |
|---|---|---|---|---|
| Management Fee | 0.68% | 0.68% | 0.60% | 0.60% |
| 12b–1 Fee | 0.00% | 0.25% | 0.00% | 0.25% |
| Other Expenses | 0.30% | 0.30% | 0.04% | 0.04% |
| Total Expenses | 0.98% | 1.23% | 0.64% | 0.89% |
| Waivers | 0.08% | 0.08% | 0.01% | 0.01% |
| Net Expenses | 0.90% | 1.15% | 0.63% | 0.88% |

| | Existing fund Invesco V.I. American Value Fund (Series II) | Replacement fund Invesco Mid Cap Value Portfolio (Class B)† |
|---|---|---|
| Management Fee | 0.72% | 0.65% |
| 12b–1 Fee | 0.25% | 0.25% |
| Other Expenses | 0.28% | 0.04% |
| Acquired Expenses | 0.00% | 0.06% |
| Total Expenses | 1.25% | 1.00% |
| Waivers | 0.00% | 0.02% |
| Net Expenses | 1.25% | 0.98% |

| | Existing fund Invesco V.I. Global Real Estate Fund (Series I) | Existing fund Invesco V.I. Global Real Estate Fund (Series II) | Replacement fund Clarion Global Real Estate Portfolio (Class A) | Replacement fund Clarion Global Real Estate Portfolio (Class B) |
|---|---|---|---|---|
| Management Fee | 0.75% | 0.75% | 0.60% | 0.60% |
| 12b–1 Fee | 0.00% | 0.25% | 0.00% | 0.25% |
| Other Expenses | 0.39% | 0.39% | 0.06% | 0.06% |
| Total Expenses | 1.14% | 1.39% | 0.66% | 0.91% |
| Waivers | 0.00% | 0.00% | 0.00% | 0.00% |
| Net Expenses | 1.14% | 1.39% | 0.66% | 0.91% |

| | Existing fund Invesco V.I. Growth and Income Fund (Series I) | Existing fund Invesco V.I. Growth and Income Fund (Series II) | Replacement fund Invesco Comstock Portfolio (Class A) | Replacement fund Invesco Comstock Portfolio (Class B) |
|---|---|---|---|---|
| Management Fee | 0.56% | 0.56% | 0.57% | 0.57% |
| 12b-1 Fee | 0.00% | 0.25% | 0.00% | 0.25% |
| Other Expenses | 0.28% | 0.28% | 0.03% | 0.03% |
| Total Expenses | 0.84% | 1.09% | 0.60% | 0.85% |
| Waivers | 0.06% | 0.06% | 0.02% | 0.02% |

| | Existing fund Invesco V.I. Growth and Income Fund (Series I) | Existing fund Invesco V.I. Growth and Income Fund (Series II) | Replacement fund Invesco Comstock Portfolio (Class A) | Replacement fund Invesco Comstock Portfolio (Class B) |
|---|---|---|---|---|
| Net Expenses | 0.78% | 1.03% | 0.58% | 0.83% |

| | Existing fund ClearBridge Variable All Cap Value Portfolio (Class I) | Replacement fund T. Rowe Price Large Cap Value Portfolio (Class E) |
|---|---|---|
| Management Fee | 0.75% | 0.57% |
| 12b–1 Fee | 0.00% | 0.15% |
| Other Expenses | 0.06% | 0.02% |
| Total Expenses | 0.81% | 0.74% |
| Waivers | 0.00% | 0.00% |
| Net Expenses | 0.81% | 0.74% |

| | Existing fund UIF U.S. Real Estate Portfolio (Class I) | Replacement fund Clarion Global Real Estate Portfolio (Class B) |
|---|---|---|
| Management Fee | 0.80% | 0.60% |
| 12b–1 Fee | 0.00% | 0.25% |
| Other Expenses | 0.30% | 0.06% |
| Total Expenses | 1.10% | 0.91% |
| Waivers | 0.00% | 0.00% |
| Net Expenses | 1.10% | 0.91% |

| | Existing fund Pioneer Disciplined Value VCT Portfolio (Class II) | Replacement fund MFS® Value Portfolio (Class B) |
|---|---|---|
| Management Fee | 0.70% | 0.70% |
| 12b–1 Fee | 0.25% | 0.25% |
| Other Expenses | 0.08% | 0.03% |
| Total Expenses | 1.03% | 0.98% |
| Waivers | 0.03% | 0.13% |
| Net Expenses | 1.00% | 0.85% |

| | Existing fund Pioneer Emerging Markets VCT Portfolio (Class II) | Replacement fund MFS® Emerging Markets Equity Portfolio (Class A) | Replacement fund MFS® Emerging Markets Equity Portfolio (Class B) |
|---|---|---|---|
| Management Fee | 1.15% | 0.91% | 0.91% |
| 12b–1 Fee | 0.25% | 0.00% | 0.25% |
| Other Expenses | 0.30% | 0.16% | 0.16% |
| Acquired Expenses | 0.01% | 0.00% | 0.00% |
| Total Expenses | 1.71% | 1.07% | 1.32% |
| Waivers | 0.00% | 0.02% | 0.02% |
| Net Expenses | 1.71% | 1.05% | 1.30% |

| | Existing fund Pioneer Equity Income VCT Portfolio (Class II) | Replacement fund Invesco Comstock Portfolio (Class B) |
|---|---|---|
| Management Fee | 0.65% | 0.57% |
| 12b–1 Fee | 0.25% | 0.25% |
| Other Expenses | 0.10% | 0.03% |
| Total Expenses | 1.00% | 0.85% |
| Waivers | 0.00% | 0.02% |
| Net Expenses | 1.00% | 0.83% |

| | Existing fund Pioneer Ibbotson Growth Allocation VCT Portfolio (Class II) | Replacement fund MetLife Moderate to Aggressive Allocation Portfolio (Class B) |
|---|---|---|
| Management Fee | 0.17% | 0.06% |
| 12b–1 Fee | 0.25% | 0.25% |
| Other Expenses | 0.05% | 0.01% |
| Acquired Fund Fees and Expenses | 0.84% | 0.67% |
| Acquired Management Fees* | 0.63% | 0.63% |
| Total Expenses | 1.31% | 0.99% |
| Waivers | 0.00% | 0.00% |
| Net Expenses | 1.31% | 0.99% |

*This amount is the estimated amount of acquired fund fees and expenses attributable to the management fees of the underlying funds.

| | Existing fund Pioneer Ibbotson Moderate Allocation VCT Portfolio (Class II) | Replacement fund MetLife Moderate Allocation Portfolio (Class B) |
|---|---|---|
| Management Fee | 0.17% | 0.06% |
| 12b–1 Fee | 0.25% | 0.25% |
| Other Expenses | 0.08% | 0.00% |
| Acquired Fund Fees and Expenses | 0.80% | 0.63% |
| Acquired Management Fees* | 0.58% | 0.58% |
| Total Expenses | 1.30% | 0.94% |
| Waivers | 0.02% | 0.00% |
| Net Expenses | 1.28% | 0.94% |

*This amount is the estimated amount of acquired fund fees and expenses attributable to the management fees of the underlying funds.

11. MetLife Advisers, LLC is the investment adviser of each of the Replacement Funds.

12. The Substitution Applicants believe the Substitutions will provide significant benefits to Contract owners, including improved selection of sub-advisers and simplification of fund offerings through the elimination of overlapping offerings.

13. Based on generally better performance records and lower total expenses of the Replacement Funds, the Substitution Applicants believe that the sub-advisers to the Replacement Funds overall may provide more consistent performance for their Funds than the advisers or sub-advisers of the Existing Funds (other than those advisers or sub-advisers that manage both the Existing Fund and the Replacement Fund). At the same time, Applicants assert that Contract owners will continue to be able to select among a similar number of investment options, with a similar range of investment objectives, investment strategies, and managers.

14. As a result of the Substitutions, the number of investment options offered under the Contracts may change slightly. That number, which currently ranges from three to 122, will range from three to 120 following the Substitutions. For the Contracts that will experience a reduction in the number of available investment options, the Applicants assert that none will be reduced by more than two investment options and all will have at least 15 available investment options after the Substitutions. With respect to products with fewer than 20 open investment options, only one product's investment options will be reduced, moving from 16 to 15 investment options.

15. The Substitutions will replace investment options advised by investment advisers that are not affiliated with the Substitution Applicants with funds for which MetLife Advisers, LLC acts as investment adviser, which will permit MetLife Advisers, LLC, under the exemptive orders issued to New England Funds Trust I, et al., Inv. Co. Rel. No. 22824 (1997) (order), Inv. Co. Release No. 23859 (1999) (amended order) (the ''Multi-Manager Order'') to enter into and amend sub-advisory agreements without shareholder approval under certain conditions to hire, monitor and replace sub-advisers as necessary to achieve optimal performance. Met Series Fund and MIST have been subject to the Multi-Manager Order since 1999 and 2000, respectively.

16. With respect to all of the proposed Substitutions, except for the DWS Capital Growth VIP/Jennison Growth Portfolio and Invesco V.I. Growth and Income Fund/Invesco Comstock Portfolio, the management fees of the Replacement Funds are the same or lower than that of the respective Existing Fund. With respect to the DWS Capital Growth VIP/Jennison Growth Portfolio substitution, the net expenses (after waivers) of Jennison Growth Portfolio were 0.01% lower than those of DWS Capital Growth VIP. With respect to the Invesco V.I. Growth and Income Fund/Invesco Comstock Portfolio substitution, the total expenses (before waivers) and net expenses (after waivers) of Invesco Comstock Portfolio were lower than those of Invesco V.I. Growth and Income Fund.

17. The Applicants assert the Substitutions will result in decreased net expense ratios, after waivers, ranging from 0.01% to 0.66%. Moreover, there will be no increase in Contract fees and expenses, including mortality and expense risk fees and administration and distribution fees charged to the Separate Accounts as a result of the Substitutions. The Substitution Applicants believe that the Replacement Funds have investment objectives, policies and risk profiles, as described in their prospectuses, that are substantially the same as, or sufficiently similar to, the corresponding Existing Funds to make those Replacement Funds appropriate candidates as substitutes. The Insurance Companies considered the performance history of

the Existing Funds and the Replacement Funds and determined that no Contract owners would be materially adversely affected as a result of the Substitutions.

18. The share classes of the Replacement Funds are either identical to or less than the share classes of the Existing Funds with respect to the imposition of Rule 12b–1 fees currently imposed, except with respect to the substitution of ClearBridge Variable All Cap Value Portfolio/T. Rowe Price Large Cap Value Portfolio (Class E) and UIF U.S. Real Estate Portfolio/Clarion Global Real Estate Portfolio (Class B). However, the total expenses for the T. Rowe Price Large Cap Value Portfolio will be seven basis points lower than the total expenses of the Existing Fund after the substitution, and the total expenses for the Clarion Global Real Estate Portfolio will be 19 basis points less than the total expenses of the Existing Fund after the substitution.

19. Each MIST Replacement Fund's Class B shares Rule 12b–1 fees can be increased to 0.50% and each MIST Replacement Fund's Class E shares Rule 12b–1 fees can be increased to 0.25% by the Replacement Fund's Board of Trustees. Each Met Series Funds' Replacement Fund's Class B shares Rule 12b–1 fees can be increased to 0.50% of net assets by the Replacement Fund's Board of Trustees without shareholder approval. However, Met Series Fund and MIST represent that Rule 12b–1 fees of the Class B and Class E shares of the Replacement Funds issued in connection with the proposed substitutions will not be raised above the current rate without approval of a majority in interest of the respective Replacement Funds' shareholders after the Substitutions. The distributors of the Existing Funds pay to the Insurance Companies, or their affiliates, any Rule 12b–1 fees associated with the class of shares sold to the Separate Accounts. Similarly, the distributors for MIST and Met Series Fund will receive from the applicable class of shares held by the Separate Accounts Rule 12b–1 fees in the same amount or a lesser amount than the amount paid by the Existing Funds, except as described above.

**Legal Analysis and Conditions**

1. The Substitution Applicants request that the Commission issue an order pursuant to Section 26(c) of the Act approving the proposed substitutions.

2. Applicants represent that the Contracts permit the applicable Insurance Company, subject to compliance with applicable law, to substitute shares of another investment company for shares of an investment company held by a sub-account of the Separate Accounts. The prospectuses for the Contracts and the Separate Accounts contain appropriate disclosure of this right.

3. By a supplement to the prospectuses for the registered Contracts and Separate Accounts and private placement memoranda for the unregistered Contracts and Separate Accounts, each Insurance Company has notified all owners of the Contracts affected by the Substitutions of its intention to take the necessary actions to substitute shares of the funds as described in this notice. The supplement has advised Contract owners that from the date of the supplement until the date of the proposed substitution, owners are permitted to make one transfer of Contract value (or annuity unit exchange) out of the Existing Fund sub-account to one or more other sub-accounts without the transfer (or exchange) being treated as one of a limited number of permitted transfers (or exchanges) or a limited number of transfers (or exchanges) permitted without a transfer charge. The supplement also has informed Contract owners that the Insurance Company will not exercise any rights reserved under any Contract to impose additional restrictions on transfers until at least 30 days after the proposed Substitutions. The supplement also has advised Contract owners that for at least 30 days following the proposed Substitutions, the Insurance Companies will permit Contract owners affected by the Substitutions to make one transfer of Contract value (or annuity unit exchange) out of the Replacement Fund sub-account to one or more other sub-accounts without the transfer (or exchange) being treated as one of a limited number of permitted transfers (or exchanges) or a limited number of transfers (or exchanges) permitted without a transfer charge.

4. The proposed Substitutions will take place at relative net asset value with no change in the amount of any Contract owner's Contract value, cash value, or death benefit or in the dollar value of his or her investment in the Separate Accounts.

5. The process for accomplishing the transfer of assets from each Existing Fund to its corresponding Replacement Fund will be determined on a case-by-case basis. In most cases, it is expected that the Substitutions will be effected by redeeming shares of an Existing Fund for cash and using the cash to purchase shares of the Replacement Fund. In certain other cases, it is expected that the Substitutions will be effected by redeeming the shares of an Existing Fund in-kind; those assets will then be contributed in-kind to the corresponding Replacement Fund to purchase shares of that Fund.

6. Contract owners will not incur any fees or charges as a result of the proposed Substitutions, nor will their rights or an Insurance Company's obligations under the Contracts be altered in any way. All expenses incurred in connection with the proposed Substitutions, including brokerage, legal, accounting, and other fees and expenses, will be paid by the Insurance Companies. In addition, the proposed Substitutions will not impose any tax liability on Contract owners. The proposed Substitutions will not cause the Contract fees and charges currently being paid by existing Contract owners to be greater after the proposed Substitutions than before the proposed Substitutions. No fees will be charged on the transfers made at the time of the proposed Substitutions because the proposed Substitutions will not be treated as a transfer for the purpose of assessing transfer charges or for determining the number of remaining permissible transfers in a Contract year.

7. In addition to the prospectus supplements distributed to owners of Contracts, within five business days after the proposed Substitutions are completed, Contract owners will be sent a written notice informing them that the Substitutions were carried out and that they may make one transfer of all Contract value or cash value under a Contract invested in any one of the sub-accounts on the date of the notice to one or more other sub-accounts available under their Contract at no cost and without regard to the usual limit on the frequency of transfers among sub-accounts or from the variable account options to the fixed account options. The written notice will also reiterate that (other than with respect to ''market timing'' activity) the Insurance Company will not exercise any rights reserved by it under the Contracts to impose additional restrictions on transfers or to impose any charges on transfers until at least 30 days after the proposed Substitutions are completed. The Insurance Companies will also send each Contract owner current prospectuses for the Replacement Funds involved to the extent that they have not previously received copies.

8. Each Insurance Company also is seeking approval of the proposed Substitutions from any state insurance regulators whose approval may be necessary or appropriate.

9. The Substitution Applicants agree that for those who were Contract owners on the date of the proposed Substitutions, the Insurance Companies will reimburse, on the last business day of each fiscal period (not to exceed a fiscal quarter) during the twenty-four months following the date of the proposed Substitutions, those Contract owners whose sub-account invests in the Replacement Fund such that the sum of the Replacement Fund's net operating expenses (taking into account fee waivers and expense reimbursements) and sub-account expenses (asset-based fees and charges deducted on a daily basis from sub-account assets and reflected in the calculation of sub-account unit values) for such period will not exceed, on an annualized basis, the sum of the Existing Fund's net operating expenses taking into account fee waivers and expense reimbursements and sub-account expenses for fiscal year 2013, except with respect to the ClearBridge Variable All Cap Value Portfolio/T. Rowe Price Large Cap Value Portfolio, DWS Capital Growth VIP/Jennison Growth Portfolio, Invesco V.I. American Franchise Fund/T. Rowe Price Large Cap Growth Portfolio, Invesco V.I. Growth and Income Fund/Invesco Comstock Portfolio and UIF U.S. Real Estate Portfolio/Clarion Global Real Estate Portfolio Substitutions.

10. With respect to the ClearBridge Variable All Cap Value Portfolio/T. Rowe Price Large Cap Value Portfolio, DWS Capital Growth VIP/Jennison Growth Portfolio, Invesco V.I. American Franchise Fund/T. Rowe Price Large Cap Growth Portfolio, Invesco V.I. Growth and Income Fund/Invesco Comstock Portfolio and UIF U.S. Real Estate Portfolio/Clarion Global Real Estate Portfolio Substitutions, the reimbursement agreement with respect to the Replacement Fund's operating expenses and sub-account expenses, will extend for the life of each Contract outstanding on the date of the proposed Substitutions.

11. The Substitution Applicants further agree that, except with respect to the ClearBridge Variable All Cap Value Portfolio/T. Rowe Price Large Cap Value Portfolio, DWS Capital Growth VIP/Jennison Growth Portfolio, Invesco V.I. American Franchise Fund/T. Rowe Price Large Cap Growth Portfolio, Invesco V.I. Growth and Income Fund/Invesco Comstock Portfolio and UIF U.S. Real Estate Portfolio/Clarion Global Real Estate Portfolio Substitutions, they will not increase total separate account charges (net of any reimbursements or waivers) for any existing owner of the Contracts on the date of the substitutions for a period of two years from the date of the substitutions.

12. With respect to the ClearBridge Variable All Cap Value Portfolio/T. Rowe Price Large Cap Value Portfolio, DWS Capital Growth VIP/Jennison Growth Portfolio, Invesco V.I. American Franchise Fund/T. Rowe Price Large Cap Growth Portfolio, Invesco V.I. Growth and Income Fund/Invesco Comstock Portfolio and UIF U.S. Real Estate Portfolio/Clarion Global Real Estate Portfolio Substitutions, the agreement not to increase the separate account charges will extend for the life of each Contract outstanding on the date the proposed Substitutions are completed.

13. In each case, the applicable Insurance Companies believe that it is in the best interests of the Contract owners to substitute the Replacement Fund for the Existing Fund. The Insurance Companies believe that the Replacement Fund's sub-adviser, where applicable, will, over the long term, be positioned to provide at least comparable performance to that of the Existing Fund's sub-adviser.

14. The Substitution Applicants assert that Contract owners will be better off with the array of sub-accounts offered after the proposed Substitutions than they have been with the array of sub-accounts offered prior to the substitutions.

15. The Substitution Applicants represent that none of the proposed Substitutions is of the type that Section 26(c) was designed to prevent. Unlike traditional unit investment trusts where a depositor could only substitute an investment security in a manner which permanently affected all the investors in the trust, the Contracts provide each Contract owner with the right to exercise his or her own judgment and transfer Contract or cash values into other sub-accounts. Moreover, the Insurance Companies will offer Contract owners the opportunity to transfer amounts out of the affected sub-accounts into any of the remaining sub-accounts without cost or other disadvantage. The proposed Substitutions, therefore, will not result in the type of costly forced redemption which Section 26(c) was designed to prevent.

**Section 17(b) Relief**

1. The Section 17 Applicants request an order under Section 17(b) exempting them from the provisions of Section 17(a) to the extent necessary to permit the Insurance Companies to carry out each of the proposed Substitutions.

2. Section 17(a)(1) of the Act, in relevant part, prohibits any affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, from knowingly selling any security or other property to that company. Section 17(a)(2) of the Act generally prohibits the persons described above, acting as principals, from knowingly purchasing any security or other property from the registered company.

3. Shares held by a separate account of an insurance company are legally owned by the insurance company, the Insurance Companies and their affiliates collectively own of record substantially all of the shares of MIST and Met Series Fund. Therefore, MIST and Met Series Fund and their respective funds are arguably under the control of the Insurance Companies notwithstanding the fact that Contract owners may be considered the beneficial owners of the shares held in the Separate Accounts. If MIST and Met Series Fund and their respective funds are under the control of the Insurance Companies, then each Insurance Company is an affiliated person or an affiliated person of an affiliated person of MIST and Met Series Fund and their respective funds. If MIST and Met Series Fund and their respective funds are under the control of the Insurance Companies, then MIST and Met Series Fund and their respective funds are affiliated persons of the Insurance Companies. Regardless of whether or not the Insurance Companies can be considered to control MIST and Met Series Fund and their respective funds, because the Insurance Companies own of record more than 5% of the shares of each of them and are under common control with each Replacement Fund's investment adviser, the Insurance Companies are affiliated persons of both MIST and Met Series Fund and their respective funds. Likewise, their respective funds are each an affiliated person of the Insurance Companies. The Insurance Companies, through their separate accounts, in the aggregate, own more than 5% of the outstanding shares of the following Existing Funds: Invesco V.I. American Value Fund, Invesco V.I. Global Real Estate Fund, Invesco V.I. Growth and Income Fund, ClearBridge Variable All Cap Value Portfolio, UIF U.S. Real Estate Portfolio, Pioneer Disciplined Value VCT Portfolio, Pioneer Emerging Markets VCT Portfolio, Pioneer Equity Income VCT Portfolio, Pioneer Ibbotson Growth Allocation VCT Portfolio, Pioneer Ibbotson Moderate Allocation VCT Portfolio. Therefore, each Insurance Company is an affiliated person of those funds. All in-kind redemptions from an

Existing Fund of which any of the Substitution Applicants is an affiliated person will be effected in accordance with the conditions set forth in the Commission's no-action letter issued to *Signature Financial Group, Inc.* (available December 28, 1999).

4. The Section 17 Applicants submit that the In-Kind Transactions, as described in the application, meet the conditions set forth in Section 17(b) of the 1940 Act.

5. Section 17 Applicants maintain that the terms of the proposed in-kind purchase transactions, including the consideration to be paid and received by each Fund involved, are reasonable, fair and do not involve overreaching principally because the transactions will conform with all but one of the conditions (that the consideration paid for the securities being purchased or sold may not be entirely cash) enumerated in Rule 17a–7 of the 1940 Act. The proposed transactions will take place at relative net asset value in conformity with the requirements of Section 22(c) of the Act and Rule 22c–1 thereunder with no change in the amount of any Contract owner's contract value or death benefit or in the dollar value of his or her investment in any of the Separate Accounts. The Applicants assert that Contract owners will not suffer any adverse tax consequences as a result of the substitutions, and the fees and charges under the Contracts will not increase because of the substitutions.

6. The Boards of Trustees of MIST and Met Series Fund have adopted procedures, as required by paragraph (e)(1) of Rule 17a–7, pursuant to which the series of each may purchase and sell securities to and from their affiliates. The Section 17 Applicants assert they will carry out the proposed Insurance Company in-kind purchases in conformity with all of the conditions of Rule 17a–7 and each series' procedures thereunder, except that the consideration paid for the securities being purchased or sold may not be entirely cash. Nevertheless, the Substitution Applicants state that the circumstances surrounding the proposed Substitutions will be such as to offer the same degree of protection to each Replacement Fund from overreaching that Rule 17a–7 provides to them generally in connection with their purchase and sale of securities under that Rule in the ordinary course of their business. In particular, the Insurance Companies (or any of their affiliates) cannot effect the proposed transactions at a price that is disadvantageous to any of the Replacement Funds. Although the transactions may not be entirely for cash, each will be effected based upon (1) the independent market price of the portfolio securities valued as specified in paragraph (b) of Rule 17a–7, and (2) the net asset value per share of each Fund involved valued in accordance with the procedures disclosed in its respective investment company registration statement and as required by Rule 22c–1 under the Act. No brokerage commission, fee, or other remuneration will be paid to any party in connection with the proposed in-kind purchase transactions.

7. The sale of shares of Replacement Funds for investment securities, as contemplated by the proposed Insurance Company in-kind purchases, is consistent with the investment policies and restrictions of the Investment Companies and the Replacement Funds because (1) the shares are sold at their net asset value, and (2) the portfolio securities are of the type and quality that the Replacement Funds would each have acquired with the proceeds from share sales had the shares been sold for cash. To assure that the second of these conditions is met, MetLife Advisers, LLC and the sub-adviser, as applicable, will examine the portfolio securities being offered to each Replacement Fund and accept only those securities as consideration for shares that it would have acquired for each such Fund in a cash transaction.

8. The Section 17 Applicants represent that the proposed in-kind purchases meet all of the requirements of Section 17(b) of the Act and that an exemption should be granted, to the extent necessary, from the provisions of Section 17(a).

## Conclusion

Applicants assert that for the reasons summarized above that the proposed substitutions and related transactions meet the standards of Section 26(c) of the Act and are consistent with the standards of Section 17(b) of the Act and that the requested orders should be granted.

For the Commission, by the Division of Investment Management pursuant to delegated authority.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–07512 Filed 4–3–14; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission Investor Advisory Committee will hold a meeting on Thursday, April 10, 2014, in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE., Washington, DC. The meeting will begin at 10:00 a.m. (EST) and will be open to the public. Seating will be on a first-come, first-served basis. Doors will open at 9:30 a.m. Visitors will be subject to security checks. The meeting will be webcast on the Commission's Web site at *www.sec.gov.*

On March 28, 2014, the Commission issued notice of the Committee meeting (Release No. 33–9567), indicating that the meeting is open to the public and inviting the public to submit written comments to the Committee. This Sunshine Act notice is being issued because a quorum of the Commission may attend the meeting.

The agenda for the meeting includes: Remarks from Commissioners; remarks from the Investor Advocate; election of Investor Advisory Committee Chair; a recommendation from the Investor as Purchaser Subcommittee regarding crowdfunding regulations; and nonpublic subcommittee meetings.

For further information, please contact the Office of the Secretary at (202) 551–5400.

Dated: April 2, 2014.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–07686 Filed 4–2–14; 4:15 pm]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71832; File No. SR–ISE–2014–18]**

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend ISE Rule 623 (''Options Communications'') To Conform With the Rules of the Financial Industry Regulatory Authority Inc.

March 31, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 20, 2014, the International Securities Exchange, LLC (''Exchange'' or ''ISE'')

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been substantially prepared by the Exchange. ISE has designated the proposed rule change as constituting a ''non-controversial'' rule change under Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) [4] thereunder, which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange is proposing to update ISE Rule 623 (Options Communications) to conform with the rules of the Financial Industry Regulatory Authority, Inc. (''FINRA'') for purposes of an agreement between the Exchange and FINRA pursuant to Exchange Act Rule 17d–2.[5] The text of the proposed rule change is available on the Exchange's Web site at *http://www.ise.com,* at the Exchange's principal office, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Pursuant to Exchange Act Rule 17d–2,[6] the Exchange and FINRA entered into an agreement to allocate regulatory responsibility for common rules (''17d–2 Agreement''). The 17d–2 Agreement covers common members of the Exchange and FINRA (''Common Members'') and allocates to FINRA regulatory responsibility, with respect to Common Members, for the following: (i) Examination of Common Members for compliance with federal securities laws, rules and regulations and rules of the Exchange that the Exchange has certified as identical or substantially similar to FINRA rules; (ii) investigation of Common Members for violations of federal securities laws, rules and regulations, and the rules of the Exchange that the Exchange has certified as identical or substantially identical to FINRA rules; and (iii) enforcement of compliance by Common Members with the federal securities laws, rules and regulations, and the rules of the Exchange that the Exchange has certified as identical or substantially similar to FINRA rules.

The 17d–2 Agreement included a certification by the Exchange that states that the requirements contained in certain Exchange rules are identical to, or substantially similar to, certain FINRA rules that have been identified as comparable. To conform with comparable FINRA rules for purposes of the 17d–2 Agreement, the Exchange is proposing to amend ISE Rule 623 to conform with changes made by FINRA to its corresponding rule, Rule 2220.[7]

First, the Exchange proposes to amend Rule 623(a) to reduce the number of defined categories of communication from six (in the current rule) to three: ''Retail communications,'' ''correspondence,'' and ''institutional communications.'' Current definitions of ''sales literature,'' ''advertisement,'' and ''independently prepared reprint'' would be combined into a single category of ''retail communications.'' Specifically, the proposal would define ''retail communication'' to mean ''any written (including electronic) communication that is distributed or made available to more than 25 retail investors within any 30 calendar-day period.'' The Exchange would also update the current definition of ''correspondence'' to mean ''any written (including electronic) communication distributed or made to 25 or fewer retail customers within any 30 calendar-day period.'' Finally, the Exchange would define ''institutional communication'' to include written (including electronic) communications that are distributed or made available only to institutional investors. The Exchange believes the proposed changes to the definitions in Rule 623(a) would create a more concise and descriptive rule, and clarify the terms for ISE members.

Second, the Exchange is proposing to amend Rule 623(b), ''Approval by Registered Options Principal.'' More specifically, the Exchange is proposing to replace the phrase ''advertisements, sales literature . . . and independently prepared reprints'' in Rule 623(b)(1) with the new term, ''retail communications.'' The Exchange believes that this change would make the rule more coherent with the other proposed changes.

In addition, the proposal would amend Rule 623(b)(2) to delete the requirement for prior approval by a Registered Options Principal of correspondence (as currently defined) that is distributed to 25 or more existing retail customers within a 30 calendar-day period that makes any financial or investment recommendation or otherwise promotes the product or service of a member. Under the proposal, such communications would be considered retail communications and therefore subject to the principal approval requirement of amended Rule 623(b)(1). Under the proposal, correspondence (as amended) would continue to be excluded from the requirement to be approved by a Registered Options Principal prior to use but would still be subject to the supervision and review requirements of Rule 609. As such, ISE believes that the proposed change would not substantively change the scope of options communications that would require principal approval.

Next, the Exchange is proposing to amend Rule 623(b)(3) to modify the required approvals of Institutional communications. Specifically, the Exchange is proposing to add that its members shall ''establish written procedures that are appropriate to its business, size, structure, and customers for review by a Registered Options Principal of institutional communications used by the member.'' The Exchange believes this would better align ISE Rule 623 with FINRA Rule 2220.

Third, the Exchange is proposing to amend Rule 623(c) to replace the phrase ''advertisements, sales literature, and independently prepared reprints'' with the new proposed term, ''retail communications.'' The Exchange is also proposing to exempt options disclosure documents and prospectuses from Exchange review and approval as these documents have other further requirements under the Securities Act of 1933 (''Securities Act''). The Exchange

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] 17 CFR 240.17d–2.

[6] *Id.*

[7] *See* Exchange Act Release No. 68650 (Jan. 14, 2013), 78 FR 4182 (Jan. 18, 2013) (Approving, among other things, amendments to FINRA Rule 2220 (Options Communications) to update cross-references to FINRA Rule 2210 (Communications with the Public)); *see also* Exchange Act Release No. 66681 (Mar. 29, 2012), 77 FR 20452 (Apr. 4, 2012) (Approving, among other things, amendments to FINRA Rule 2210).

believes these changes would better align Exchange Rule 623 with FINRA Rule 2220.

Fourth, the Exchange is proposing to amend Rule 623(d) to specify that its members may not use any options communications that would constitute a prospectus (as defined in the Securities Act) unless it would meet the requirements of Securities Act Section 10.[8] The Exchange believes this change would put its members on notice that all documents that may constitute a prospectus would be required to comply with the Securities Act.

In addition, the Exchange is proposing to modify Rule 623(d) to provide that any statement made referring to potential opportunities or advantages presented by options must be accompanied by a statement identifying the potential risks posed as well. The Exchange believes that moving this language to the end of paragraph (d) would help alert the public of potential risks associated with options, as well as the advantages, which would create more awareness of the potential harms that may arise in the participation of such securities. The Exchange believes that this would help ensure that investors are protected from potentially false or misleading communications distributed by its members. The Exchange also believes this would better align ISE Rule 623 with FINRA Rule 2220 and provide greater clarity to its members and the public regarding the Exchange's rules.

In sum, the Exchange believes the proposed changes would alert its members to their requirements with respect to Options Communications while further regulating all communications for compliance with Exchange rules, and the Act and rules promulgated thereunder. In addition, the Exchange believes that the proposed rule change would help ensure that investors are protected from potentially false or misleading communications with the public distributed by its members.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[10] Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) requirement that the rules of an exchange are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[11]

In particular, the Exchange believes the proposed rule changes would provide greater clarity to its members and the public regarding the Exchange's rules and provide greater harmonization between the Exchange and FINRA rules of similar purpose, resulting in greater uniformity and less burdensome and more efficient regulatory compliance. In addition, the Exchange believes that the proposed rule change would help ensure that investors are protected from potentially false or misleading communications with the public distributed by its members.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the proposed rule change will merely bring clarity and consistency to Exchange rules. The Exchange does not believe the proposed rule change will impose any burden on any intramarket competition as it applies to its members. In addition, the Exchange does not believe the proposed rule filing will bring any unnecessary burden on intermarket competition as it is consistent with FINRA Rule 2220 (Options Communications).

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. Pursuant to Rule 19b–4(f)(6)(iii), however, the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.[14] The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to immediately conform its rules to corresponding FINRA rules. This will help ensure that such ISE rules will continue to be covered by the existing 17d–2 Agreement between the Exchange and FINRA and reduce duplicative regulation of Common Members.[15]

At any time within sixty (60) days of the filing the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[8] 15 U.S.C. 78j.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *Id.*

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). Rule 19b–4(f)(6) also requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. *See* 15 U.S.C. 78c(f).

*Electronic Comments*

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml*); or
- Send an Email to *rule-comments@sec.gov.* Please include File No. SR–ISE–2014–18 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2014–18. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2014–18 and should be submitted on or before April 25, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–07511 Filed 4–3–14; 8:45 am]

**BILLING CODE 8011–01–P**

[16] 17 CFR 200.30–3(a)(12).

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2014–23 ]**

### Petition for Exemption; Summary of Petition Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petition for exemption received.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of Title 14, Code of Federal Regulations (14 CFR). The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number involved and must be received on or before April 24, 2014.

**ADDRESSES:** You may send comments identified by docket number FAA–2014–0091 using any of the following methods:

- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments digitally.
- Mail: Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- Fax: Fax comments to the Docket Management Facility at 202–493–2251.
- Hand Delivery: Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy:* We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

*Docket:* To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mark Forseth, ANM–113, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, email *mark.forseth@faa.gov*, phone (425) 227–2796; or Sandra K. Long, ARM–201, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, email *sandra.long@faa.gov*, phone (202) 493–5245.

This notice is published pursuant to 14 CFR 11.85.

**Lirio Liu,**

*Director, Office of Rulemaking.*

**Petition for Exemption**

*Docket No.:* FAA–2014–0091
*Petitioner:* The Boeing Company
*Section of 14 CFR Affected:* §§ 25.777(a), 25.1301(a)(b)(d), and 25.1309(a)(c)
*Description of Relief Sought:* Petitioner seeks relief from the requirements for cockpit controls; equipment function and installation; and equipment, systems, and installations on Boeing Model 767–2C airplanes.

[FR Doc. 2014–07510 Filed 4–3–14; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[Docket No. FD 35810]**

### CCET, LLC—Lease and Operation Exemption—Rail Line of Norfolk Southern Railway Company

CCET, LLC (CCET), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease from Norfolk Southern Railway Company (NSR), and to operate, pursuant to a lease agreement dated March 14, 2014, an approximately 24-mile portion of NSR's CT Line, extending between milepost CT 9.0 at Clare, Ohio, east of Clare Yard, and milepost CT 32.83, west of Williamsburg, Ohio, and passing through Hamilton County and Clermont County, Ohio (the Line).

According to CCET, the lease does not contain any provision that prohibits, restricts, or would otherwise limit future interchange of traffic with any third-party carrier. CCET states that it

will hold itself out to provide all common carrier rail freight service over the Line, with NSR retaining limited overhead trackage rights.

CCET intends to consummate the proposed transaction on or after April 27, 2014, which is after the effective date of this exemption (30 days after the exemption was filed).

CCET certifies that their projected annual revenues as a result of this transaction will not result in its becoming a Class I or Class II rail carrier and will not exceed $5 million.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed by April 11, 2014 (at least seven days prior to the date the exemption becomes effective).

An original and ten copies of all pleadings, referring to Docket No. FD 35810, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on applicant's representative, James H.M. Savage, 22 Rockingham Court, Germantown, MD 20874.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

By the Board,

Decided: March 28, 2014.

**Rachel D. Campbell,**

*Director, Office of Proceedings.*

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. 2014–07522 Filed 4–3–14; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[Docket No. EP 724]**

### United States Rail Service Issues

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Notice of Public Hearing.

**SUMMARY:** The Surface Transportation Board (Board) will hold a public hearing on April 10, 2014, at its offices in Washington, DC, to provide interested persons the opportunity to report on recent service problems in the United States rail network, to hear from rail industry executives on plans to address their service problems, and to discuss additional options to improve service.

**DATES:** The hearing will be held on April 10, 2014, beginning at 9:30 a.m., in the Hearing Room at the Board's headquarters located at 395 E Street SW., Washington, DC. The hearing will be open for public observation. Any person wishing to speak at the hearing shall file with the Board a notice of intent to participate, identifying the party and the proposed speaker, no later than April 7, 2014. The notices of intent to participate are not required to be served on the parties of record; they will be posted to the Board's Web site when they are filed.

**ADDRESSES:** All filings may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the ''E-FILING'' link on the Board's Web site at ''*www.stb.dot.gov.*'' Any person submitting a filing in the traditional paper format should send an original and 10 copies of the filing to: Surface Transportation Board, Attn: Docket No. EP 724, 395 E Street SW., Washington, DC 20423–0001.

Copies of written submissions will be posted to the Board's Web site and will be available for viewing and self-copying in the Board's Public Docket Room, Suite 131. Copies of the submissions will also be available (for a fee) by contacting the Board's Chief Records Officer at (202) 245–0238 or 395 E Street SW., Washington, DC 20423–0001.

**FOR FURTHER INFORMATION CONTACT:** Valerie Quinn at (202) 245–0382. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:** The Board has been closely monitoring the rail industry's performance metrics, and is concerned about the service problems that have been occurring across significant portions of the nation's rail network, particularly on the Canadian Pacific Railway Company (CP) and BNSF Railway Company (BNSF) systems. The Board Members have written to CP and BNSF [1] to express concerns that poor service is negatively affecting agricultural, coal, passenger, and other traffic. Per the Board's request, senior management representatives of CP and BNSF met individually with each Board Member, and the Board requested certain additional data from CP and BNSF.

The Board's Office of Public Assistance, Governmental Affairs and Compliance (OPAGAC) has also been working with CP and BNSF to address and correct service issues as they arise. Representatives of OPAGAC have held numerous meetings and conference calls with affected parties to better understand the specific problems shippers are facing, and to help facilitate a quick resolution whenever possible. Board staff has facilitated meetings in Fargo, North Dakota, on service issues with shippers from North Dakota, South Dakota, Minnesota, and Montana. We anticipate that, following this public hearing, additional field meetings in other affected areas will be held. The Board's hearing is not intended to replace the informal and confidential process facilitated by OPAGAC, and shippers and railroads are encouraged to continue communicating through that office.

The Board will hold a public hearing beginning at 9:30 a.m., on April 10, 2014,[2] at its offices in Washington, DC, to provide an opportunity for interested persons to report on the status of rail service and to discuss ways to remedy the current service problems.[3] The Board will direct executive-level officials from CP and BNSF to appear at the hearing to discuss their ongoing and future efforts to improve service on their railroads and to provide an estimated timeline for a return to normal service levels. The Board particularly encourages impacted shippers and/or shipper organizations to appear at the hearing to discuss their service concerns and to comment on the railroads'

[1] *See* Letter from Daniel R. Elliott III, Chairman, and Ann D. Begeman, Vice Chairman, Surface Transportation Board, to Carl Ice, President and Chief Exec. Officer, BNSF Railway Company (Feb. 5, 2014) (on file with the Board), *available at http://stb.dot.gov* (open tab at ''E-Library, select ''Correspondence'', select ''Fall Peak Letters'', follow ''02/05/2014'' hyperlink, and select the ''.pdf'' icon); Letter from Daniel R. Elliott III, Chairman, and Ann D. Begeman, Vice Chairman, Surface Transportation Board, to E. Hunter Harrison, Chief Exec. Officer and Dir., Canadian Pacific Railway Company (Mar. 6, 2014) (on file with the Board), *available at http://stb.dot.gov* (open tab at ''E-Library, select ''Correspondence'', select ''Fall Peak Letters'', follow ''03/06/2014'' hyperlink, and select the ''.pdf'' icon).

[2] Our regulations at 49 CFR 1012.3(c) provide generally for at least seven days' advance notice of a public meeting. This decision is being served more than seven days in advance of the April 10 hearing. Although **Federal Register** publication will not be effected until April 7, 2014, we find that the service issues discussed above require that this hearing be held as soon as possible. *See* 49 CFR 1012.3(e).

[3] The Board and other agencies have held similar hearings in the past to address transportation service issues. *See, e.g., Rail Transp. of Res. Critical to the Nation's Energy Supply,* EP 672 (STB served June 6, 2007); *Notice of Discussions,* AD06–8–000 (FERC issued May 30, 2006); *Discussions with Utility & R.R. Representatives on Market & Reliability Matters,* AD06–8–000 (FERC Transcript dated May 23, 2006).

plans.[4] Also, given the service disruptions that have hindered nearly all carriers that connect through the Chicago area, other Class I railroads are also invited to file notices to appear at the hearing.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

*It is ordered:*

1. A public hearing will be held on April 10, 2014, at 9:30 a.m., in the Board's Hearing Room, at 395 E Street SW., Washington, DC, as described above.

2. CP and BNSF are directed to appear at the hearing.

3. By April 7, 2014, any person wishing to speak at the hearing shall file with the Board a notice of intent to participate (identifying the party and the proposed speaker). The notices of intent to participate are not required to be served on the parties of record; they will be posted to the Board's Web site when they are filed.

4. This decision is effective on its service date.

[4] On March 24, 2014, the Western Coal Traffic League (WCTL) filed a *Petition to Institute a Proceeding to Address the Adequacy of Coal Transportation Service Originating in the Western United States,* Docket No. EP 723. The concerns raised in WCTL's petition will be addressed as part of this docket.

By the Board, Chairman Elliott and Vice Chairman Begeman.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. 2014–07605 Filed 4–3–14; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF THE TREASURY

### United States Mint

### Notification of Citizens Coinage Advisory Committee April 8, 2014, Public Meeting.

**ACTION:** Notification of Citizens Coinage Advisory Committee April 8, 2014, Public Meeting.

**SUMMARY:** Pursuant to United States Code, Title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) public meeting scheduled for April 8, 2014.

Date: April 8, 2014.

Time: 2:00 p.m. to 4:00 p.m.

Location: This meeting will occur *via teleconference.* Interested members of the public may attend the meeting at the United States Mint; 801 9th Street NW., Washington, DC, Conference Room A.

Subject: Discussion of potential recommendation to change the reverse design of the American Eagle Silver $1 Bullion Coin, and discussion and potential recommendation to recommend designs for national medals.

*Interested persons should call the CCAC HOTLINE at (202) 354–7502 for the latest update on meeting time and room location.*

In accordance with 31 U.S.C. 5135, the CCAC:

- Advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals.
- Advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made.
- Makes recommendations with respect to the mintage level for any commemorative coin recommended.

**FOR FURTHER INFORMATION CONTACT:** William Norton, United States Mint Liaison to the CCAC; 801 9th Street NW., Washington, DC 20220; or call 202–354–7200.

Any member of the public interested in submitting matters for the CCAC's consideration is invited to submit them by fax to the following number: 202–756–6525.

**Authority:** 31 U.S.C. § 5135(b)(8)(C).

Dated: March 31, 2014.

**Richard A. Peterson,**

*Deputy Director, United States Mint.*

[FR Doc. 2014–07588 Filed 4–3–14; 8:45 am]

**BILLING CODE 4810–37–P**


# FEDERAL REGISTER

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Part II

## Environmental Protection Agency

40 CFR Part 60
Kraft Pulp Mills NSPS Review; Final Rule

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 60

**[EPA–HQ–OAR–2012–0640; FRL–9907–37–OAR]**

**RIN 2060–AR64**

## Kraft Pulp Mills NSPS Review

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This action finalizes revisions to the new source performance standards for kraft pulp mills. These revised standards include particulate matter emission limits for recovery furnaces, smelt dissolving tanks and lime kilns, and opacity limits for recovery furnaces and lime kilns equipped with electrostatic precipitators. These revised standards apply to emission units commencing construction, reconstruction or modification after May 23, 2013. This final rule removes the General Provisions exemption for periods of startup, shutdown and malfunction resulting in a standard that applies at all times. This final rule also includes additional testing requirements and updated monitoring, recordkeeping and reporting requirements for affected sources, including electronic reporting of performance test data. These revisions to the testing, monitoring, recordkeeping and reporting requirements are expected to ensure that control systems are properly maintained over time, ensure continuous compliance with standards and improve data accessibility for the Environmental Protection Agency (EPA), states, tribal governments and communities.

**DATES:** This final action is effective on April 4, 2014. The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of April 4, 2014.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID Number EPA–HQ–OAR–2012–0640. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available (e.g., confidential business information or other information whose disclosure is restricted by statute). Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

**FOR FURTHER INFORMATION CONTACT:** For questions about this final rule for kraft pulp mills, contact Dr. Kelley Spence, Natural Resources Group, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (E143–03), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–3158; fax number (919) 541–3470; email address: *spence.kelley@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

*Acronyms and Abbreviations.* The following acronyms and abbreviations are used in this document:

ADTP Air dried ton of pulp
Agency U.S. Environmental Protection Agency
ANSI American National Standards Institute
ASME American Society of Mechanical Engineers
BDT Best demonstrated technology
BLO Black liquor oxidation
BLS Black liquor solids
BSER Best system of emissions reduction
BSW Brown stock washer
CAA Clean Air Act
CBI Confidential business information
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CEMS Continuous emission monitoring system
CFR Code of Federal Regulations
Cir. Circuit Court
COMS Continuous opacity monitoring system
Court United States Court of Appeals for the District of Columbia Circuit
CWA Clean Water Act
D.C. Cir. United States Court of Appeals for the District of Columbia Circuit
dscf Dry standard cubic foot
EPA U.S. Environmental Protection Agency
ERT Electronic Reporting Tool
ESP Electrostatic precipitator
FR **Federal Register**
gr Grain(s)
$H_2S$ Hydrogen sulfide
HAP Hazardous air pollutant(s)
HVLC High-volume, low-concentration
IBR Incorporation by Reference
ICR Information collection request
lb Pound(s)
LVHC Low-volume, high-concentration
N/A Not applicable
NAICS North American Industry Classification System
NESHAP National emission standards for hazardous air pollutants
NSPS New source performance standards
NTTAA National Technology Transfer and Advancement Act of 1995
NW Northwest
O&M Operating and maintenance
$O_2$ Oxygen
OMB Office of Management and Budget
PM Particulate matter
ppm Parts per million
ppmdv Part(s) per million by dry volume
PTC Performance Test Code
RTR Risk and technology review
SDT Smelt dissolving tank
SSM Startup, shutdown and malfunction
TAPPI Technical Association of the Pulp and Paper Industry
TRS Total reduced sulfur
TTN Technology Transfer Network
U.S. United States
U.S.C. United States Code
UMRA Unfunded Mandates Reform Act
v. Versus
VCS Voluntary consensus standard(s)
VOC Volatile organic compound
yr Year(s)

*Background Information Document.* On May 23, 2013, the EPA proposed revisions to the Kraft Pulp Mills New Source Performance Standards (NSPS) based on evaluations performed by the EPA to conduct the NSPS review. In this action, we are finalizing revisions to the rule. A document summarizing the public comments on the proposal and presenting the EPA responses to those comments is available in Docket ID Number EPA–HQ–OAR–2012–0640.

*Organization of This Document.* The following outline is provided to aid in locating information in this preamble.

I. Executive Summary
A. Purpose of Regulatory Action
B. Summary of Major Provisions
C. Summary of Costs and Benefits
II. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document?
C. Judicial Review
III. Background
IV. Summary of the Final NSPS Review
A. What are the final rule requirements for kraft pulp mills?
B. What are the requirements during periods of startup, shutdown and malfunction?
C. What are the effective and compliance dates of the standards?
D. What are the requirements for submission of performance test data to the EPA?
V. Summary of Significant Changes Following Proposal
A. TRS Vent Gas Collection
B. Startup, Shutdown and Malfunction
C. Opacity Monitoring
D. TRS and Oxygen Monitoring
E. Temperature Monitoring
F. ESP Parameter Monitoring
G. Averaging Period for Determining Monitoring Allowances
H. Other Miscellaneous Changes
VI. Summary of Cost, Environmental, Energy and Economic Impacts
VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act

A red-line version of the regulatory language that incorporates the changes in this action is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2012–0640).

## I. Executive Summary

### *A. Purpose of Regulatory Action*

Section 111(b)(1)(B) of the Clean Air Act (CAA) requires the EPA to review and, if appropriate, revise existing NSPS at least every 8 years. The NSPS for Kraft Pulp Mills (40 CFR part 60, subpart BB) were promulgated in 1978 and last reviewed in 1986. In this review, the EPA considers what degree of emission limitation is achievable through the application of the best system of emission reductions (BSER), which (taking into account the cost of achieving such reduction and any non-air quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. The EPA also considers the emission limitations and reductions that have been achieved in practice.

In addition to conducting the NSPS review, the EPA evaluated the startup, shutdown and malfunction (SSM) provisions in this rule in light of the District of Columbia Circuit Court of Appeals (D.C. Cir.) decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), which held that the SSM exemption in the General Provisions in 40 CFR part 63 violated the CAA's requirement that some standard apply continuously. In the *Sierra Club* case, the D.C. Circuit vacated the SSM exemption provisions in the General Provisions of 40 CFR part 63 for non-opacity and opacity standards. The Court explained that under section 302(k) of the CAA, emission standards or limitations must be continuous in nature. The Court then held that the SSM exemption violates the CAA's requirement that some section 112 standard apply continuously. In light of the Court's reasoning, all rule provisions must be carefully examined to determine whether they provide for periods when no emission standard applies.

The EPA believes that even though the Court in *Sierra Club* v. *EPA* was considering a challenge to a section 112 national emissions standard for hazardous air pollutants (NESHAP), the Court's reasoning applies equally to CAA section 111 (NSPS) and section 129 rules. The EPA's general approach to SSM periods has been used consistently in promulgating new NSPS standards under CAA section 111, and in section 112 and section 129 rulemaking actions, since the DC Circuit's decision in *Sierra Club.* See, e.g., *New Source Performance Standards Review for Nitric Acid Plants, Final Rule,* 77 FR 48433 (August 14, 2012); *New Source Performance Standards for New Stationary Sources and Emission Guidelines for Existing Sources; Commercial and Industrial Solid Waste Incineration Units, Final rule,* 76 FR 15704, (March 21, 2011); *Oil and Natural Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews; Final rules,* 77 FR 49490, (August 16, 2012).

To address the NSPS review, SSM exemptions and other changes, the EPA is promulgating new standards which apply to affected sources at kraft pulp mills for which construction, modification or reconstruction commences after May 23, 2013. The affected sources under the NSPS are new, modified or reconstructed digester systems, brown stock washer (BSW) systems, evaporator systems, condensate stripper systems, recovery furnaces, smelt dissolving tanks (SDTs) and lime kilns at kraft pulp mills. The requirements for these new, modified or reconstructed sources are included in a new subpart—40 CFR part 60, subpart BBa. The EPA is also promulgating testing, monitoring, recordkeeping and reporting requirements for subpart BBa that are in some ways different from what is required under 40 CFR part 60, subpart BB. Subpart BB continues to apply for affected sources that are constructed, modified or reconstructed after September 24, 1976, and on or before May 23, 2013, while subpart BBa applies for affected sources constructed, modified or reconstructed after May 23, 2013.

### *B. Summary of Major Provisions*

Based on the results of the NSPS review, and following consideration of public comments, the EPA is finalizing the proposed 40 CFR part 60, subpart BBa standards for filterable particulate matter (PM), opacity and total reduced sulfur (TRS) compounds and is finalizing the associated proposed monitoring allowances. The final rule specifies that TRS emissions from digester systems, BSW systems, evaporator systems and condensate stripper systems that are controlled by incineration or other means must be collected in a low-volume high-concentration (LVHC) or a high-volume low-concentration (HVLC) closed-vent system meeting the requirements of the provisions of 40 CFR 63.450 of subpart S. Table 1 summarizes the final standards for filterable PM, opacity and TRS contained in subpart BBa.

TABLE 1—SUMMARY OF SUBPART BBa STANDARDS FOR AFFECTED SOURCES AT KRAFT PULP MILLS CONSTRUCTED, MODIFIED OR RECONSTRUCTED AFTER MAY 23, 2013

| Affected sources | 40 CFR 60.282a Filterable particulate matter (PM) | 40 CFR 60.283a Total reduced sulfur (TRS) |
|---|---|---|
| Digester system, brown stock washer system, evaporator system and condensate stripper system. | None | Meet a limit of 5 ppmdv & 10% oxygen ($O_2$), unless one of the following conditions is met:<br>1. Collect emissions from affected source in LVHC or HVLC closed-vent system meeting the requirements in 40 CFR part 63, subpart S and combust in one of the following:<br>(a) Lime kiln subject to subpart BB or BBa (8 ppmdv TRS & 10% $O_2$ limit); or |

TABLE 1—SUMMARY OF SUBPART BBa STANDARDS FOR AFFECTED SOURCES AT KRAFT PULP MILLS CONSTRUCTED, MODIFIED OR RECONSTRUCTED AFTER MAY 23, 2013—Continued

| Affected sources | 40 CFR 60.282a Filterable particulate matter (PM) | 40 CFR 60.283a Total reduced sulfur (TRS) |
|---|---|---|
| | | (b) Recovery furnace subject to subpart BB or BBa (5 or 25 ppmdv TRS @ 8% $O_2$ limit); or<br>(c) Incinerator, recovery furnace or lime kiln not subject to subpart BB or BBa, operated at a minimum temperature of 1,200 °F for 0.5 seconds (no ppmdv limit).<br>2. Collect emissions from affected source in LVHC or HVLC closed-vent system meeting the requirements in subpart S and use non-combustion control device with a limit of 5 ppmdv, uncorrected for $O_2$.<br>3. It is technologically or economically infeasible to incinerate BSW system gases.<br>4. Uncontrolled digester gases contain <0.01 pounds of TRS per air dried ton of pulp (lb TRS/ADTP). |
| Recovery furnace | 1a. *Modified:* 0.044 grains per dry standard cubic foot (gr/dscf) @ 8% $O_2$; or<br>1b. *New/reconstructed:* 0.015 gr/dscf @ 8% $O_2$ and.<br>2. *ESP only:* 20% opacity; and 2% monitoring allowance for opacity (provided ESP secondary voltage/current or power exceed minimum operating limits). | 1a. *Straight recovery furnace*[1] 5 ppmdv @ 8% $O_2$; and 1% monitoring allowance for TRS (restricted to ≤30 ppmdv @ 8% $O_2$ or<br>1b. *Cross recovery furnance*[2] 25 ppmdv @ 8% $O_2$ and 1% monitoring allownace for TRS (restricted to ≤50 ppmdv @ 8% $O_2$). |
| Smelt dissolving tank | 1a. *Modified:* 0.2 lb/ton black liquor solids (BLS) dry weight; or<br>1b. *New/reconstructed:* 0.12 lb/ton BLS dry weight if associated with a new or reconstructed recovery furnace; or<br>1c. *New/reconstructed:* 0.2 lb/ton BLS dry weight if not associated with a new or reconstructed recovery furnace. | 0.033 lb/ton BLS as hydrogen sulfide ($H_2S$). |
| Lime kiln | 1a. *Modified:* 0.064 gr/dscf @ 10% $O_2$; or<br>1b. *New/reconstructed:* 0.010 gr/dscf @ 10% $O_2$; and<br>2.a *ESP only:* 20% opacity; and 1% monitoring allowance for opacity (provided ESP secondary voltage/current or power exceed minimum operating limits). | 8 ppmdv & 10% $O_2$; and 1% monitoring allowance for TRS (restricted to ≤22 ppmdv & 10% $O_2$). |

[1] A straight recovery furnace is one that only burns kraft pulping liquors.
[2] A cross recovery furnace is one that burns kraft and neutral sulfite semichemical pulping liquors.

Continuous monitoring of opacity is required for recovery furnaces and lime kilns that are not using wet scrubbers or combined electrostatic precipitator (ESP)/scrubber systems. Continuous monitoring of TRS emissions is required for recovery furnaces, lime kilns and other affected sources that comply with the TRS concentration limits. Parameter monitoring is required for ESPs, wet scrubbers and combined ESP/scrubber systems.

The emission standards are applicable at all times as specified in the monitoring and testing provisions in subpart BBa. The EPA is including in this final rule an affirmative defense to civil penalties for exceedances of emission limits caused by malfunctions that meet certain criteria (i.e., the exceedance must come from an ''unavoidable failure''), along with recordkeeping and reporting requirements.

Initial and repeat performance testing is required once every 5 years for filterable PM and TRS for new, modified and reconstructed affected sources in subpart BBa. The EPA is also requiring initial and repeat performance testing for condensable PM to gather emissions data that will enable a broader understanding of condensable PM emissions from pulp and paper combustion sources. Mills must submit electronic copies of their performance test reports using the EPA's Electronic Reporting Tool (ERT). The EPA is also making certain technical and editorial changes, clarifying the location of applicable test methods in the Code of Federal Regulations (CFR), incorporating by reference two non-EPA test methods, and adding definitions pertinent to the requirements in subpart BBa.

### *C. Summary of Costs and Benefits*

Table 2 summarizes the total costs for all sources subject to this action and the total benefits of this action. See section VI of this preamble for further discussion.

TABLE 2—SUMMARY OF THE COSTS AND BENEFITS OF SUBPART BBa FOR NEW, MODIFIED AND RECONSTRUCTED AFFECTED SOURCES AT KRAFT PULP MILLS.

| Requirement | Capital cost ($ thousand) | Annual cost ($ thousand) | Net benefit |
|---|---|---|---|
| Repeat emissions testing | $186 | $45 | N/A |
| Monitoring | 341 | 129 | N/A |
| Incremental reporting/recordkeeping | 50 | 215 | N/A |
| Total nationwide | 577 | 390 | N/A |

Note: Totals may not sum exactly due to rounding.

## II. General Information

*A. Does this action apply to me?*

Categories and entities potentially regulated by this action include:

| Category | NAICS [1] Code | Examples of regulated entities |
|---|---|---|
| Industry | 3221 | Kraft pulp mills. |
| Federal government | ..... | Not affected. |
| State/local/tribal government | ..... | Not affected. |

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility would be regulated by this action, you should examine the applicability criteria in 40 CFR 60.280a. If you have any questions regarding the applicability of this action to a particular entity, contact the person in the preceding **FOR FURTHER INFORMATION CONTACT** section.

*B. Where can I get a copy of this document?*

In addition to being available in the docket, an electronic copy of this final action is available on the World Wide Web through the Technology Transfer Network (TTN) Web site. Following signature, the EPA posted a copy of this final action on the TTN Web site's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN Web site provides information and technology exchange in various areas of air pollution control.

*C. Judicial Review*

Under section 307(b)(1) of the CAA, judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by June 3, 2014. Under section 307(b)(2) of the CAA, the requirements established by these final rules may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for us to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, William Jefferson Clinton Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

## III. Background

New source performance standards implement CAA section 111, which requires that each NSPS reflect the degree of emission limitation achievable through the application of the BSER which (taking into consideration the cost of achieving such emission reductions, any non-air quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. This level of control is referred to as BSER and has been referred to in the past as ''best demonstrated technology'' or BDT. In assessing whether a standard is achievable, the EPA must account for routine operating variability associated with performance of the system on whose performance the standard is based. See *National Lime Ass'n* v. *EPA,* 627 F. 2d 416, 431–33 (D.C. Cir. 1980). In addition to new sources, existing affected sources that are modified or reconstructed are also subject to this final rule.

Section 111(b)(1)(B) of the CAA requires the EPA to periodically review and revise the standards of performance, as necessary, to reflect improvements in methods for reducing emissions. The original NSPS for Kraft Pulp Mills (40 CFR part 60, subpart BB) were promulgated in the **Federal Register** on February 23, 1978 (43 FR 7572). The first review of the kraft pulp mills NSPS was completed on May 20, 1986 (51 FR 18544). The latest review of the Kraft Pulp Mills NSPS was proposed on May 23, 2013, under 40 CFR part 60, subpart BBa for emission units commencing construction, reconstruction or

modification after that date. This action finalizes this latest review, conducted pursuant to CAA section 111(b)(1)(B).

## IV. Summary of the Final NSPS Review

### *A. What are the final rule requirements for kraft pulp mills?*

1. Emission Limits

The NSPS for Kraft Pulp Mills (40 CFR 60, subpart BB) applies for digester systems, BSW systems, multiple-effect evaporator systems, condensate stripper systems, recovery furnaces, SDTs and lime kilns for which construction, modification or reconstruction commenced after September 24, 1976, and on or before May 23, 2013. Through this final NSPS review, the EPA is promulgating a new 40 CFR part 60, subpart BBa containing emission limits for affected sources constructed, modified or reconstructed after May 23, 2013. In this final rule (40 CFR 60, subpart BBa), the EPA is:

- Reducing the NSPS filterable PM limit for new and reconstructed recovery furnaces from 0.044 gr/dscf (in subpart BB) to 0.015 gr/dscf.
- Maintaining the current NSPS filterable PM limit of 0.044 gr/dscf for modified recovery furnaces.
- Reducing the NSPS opacity limit for recovery furnaces from 35-percent (in subpart BB) to 20-percent opacity, clarifying that the opacity limit does not apply where an ESP is used in combination with a wet scrubber, and reducing the monitoring allowance from 6 percent (in subpart BB) to 2 percent of the 6-minute opacity averages.
- Reducing the NSPS filterable PM limit for lime kilns from 0.066 gr/dscf for gas-fired kilns and 0.13 gr/dscf for liquid-fired kilns (in subpart BB) to 0.064 gr/dscf for modified lime kilns (all fuel types) and 0.010 gr/dscf for new or reconstructed lime kilns (all fuel types).
- Adding a 20-percent opacity limit for lime kilns equipped with ESPs with a 1-percent monitoring allowance and clarifying that the limit does not apply where an ESP is used in combination with a wet scrubber.
- Reducing the NSPS filterable PM limit for new and reconstructed SDTs associated with new or reconstructed recovery furnaces from 0.2 lb/ton BLS (in subpart BB) to 0.12 lb/ton BLS.
- Maintaining the current NSPS filterable PM limit of 0.2 lb/ton BLS for modified and new and reconstructed SDTs not associated with a new or reconstructed recovery furnace.
- Maintaining the current NSPS TRS limit for straight recovery furnaces at 5 parts per million by dry volume (ppmdv) and restricting the 1-percent monitoring allowance for TRS emissions to 30 ppmdv or less. Previously, there was no maximum TRS limit for these periods in subpart BB.
- Maintaining the current NSPS TRS limit for cross recovery furnaces at 25 ppmdv and adding a 1-percent monitoring allowance for TRS emissions restricted to 50 ppmdv. Previously, there was no maximum TRS limit for these periods in subpart BB.
- Maintaining the current NSPS TRS standards for digester systems, BSW systems, evaporator systems and condensate stripper systems.
- Specifying that sources which comply with the subpart BBa TRS standards for digester systems, BSW systems, evaporator systems and condensate stripper systems by venting to a combustion device such as a lime kiln, recovery furnace, incinerator, or other device (e.g., a boiler) or a non-combustion device must collect gases in an LVHC or HVLC closed-vent system meeting the provisions of 40 CFR 63.450 of subpart S.
- Maintaining the current NSPS TRS limit for lime kilns at 8 ppmdv and adding a 1-percent monitoring allowance restricted to 22 ppmdv.
- Maintaining the current NSPS TRS limit for SDTs at 0.033 lb/ton BLS.

The PM concentration emission limits are in terms of filterable PM measured by EPA Method 5. The TRS emission limits are in terms of TRS (or TRS as $H_2S$ for SDTs) measured by EPA Method 16, 16A, 16B or 16C. Continuous monitoring of opacity is required for recovery furnaces and lime kilns that are not using wet scrubbers. Continuous monitoring of TRS emissions is required for recovery furnaces, lime kilns and other affected sources that comply with TRS concentration limits. This final rule states that the filterable PM and TRS standards apply at all times as specified in the monitoring and testing provisions in subpart BBa.

2. Parameter Monitoring Requirements

The EPA reviewed the subpart BB parameter monitoring requirements and is making several changes within subpart BBa. First, the EPA is promulgating ESP parameter monitoring requirements for recovery furnaces and lime kilns equipped with ESPs to enable affected units to show continuous compliance with the filterable PM concentration standards at all times, including periods when the opacity monitoring allowance is used. The EPA is requiring that these sources monitor the secondary voltage and secondary current (or, alternatively, total secondary power) of each ESP collection field. These ESP parameter monitoring requirements are in addition to opacity monitoring for recovery furnaces and lime kilns equipped with ESPs alone.

Second, the EPA is requiring wet scrubber parameter monitoring for recovery furnaces, SDTs and lime kilns equipped with wet scrubber systems (including combined ESP/scrubber systems). The parameter monitors will measure the wet scrubber pressure drop and scrubbing liquid flow rate (or scrubbing liquid supply pressure). Scrubber fan amperage monitoring is included in this final rule as an alternative to scrubber pressure drop monitoring for certain types of scrubbers used on SDTs (e.g., dynamic scrubbers that operate near atmospheric pressure).

Third, for recovery furnaces and lime kilns equipped with an ESP in combination with a wet scrubber system, the EPA is requiring ESP and wet scrubber parameter monitoring in place of opacity monitoring.

Also, subpart BBa specifies that parameters must be measured and recorded at least once every 15 minutes and reduced to 12-hour block averages, with two exceptions. When an opacity monitor is also used, the ESP parameters must be reduced to a semiannual average for use in the opacity monitoring allowance determination. The EPA is specifying a 5-minute data recording frequency and 3-hour block averaging time for incinerator temperature measurements required under subpart BBa.

3. Testing Requirements

As part of an ongoing effort to improve compliance with federal air emission regulations, the EPA reviewed the current filterable PM and TRS testing requirements of subpart BB and is including testing requirements for subpart BBa that are different from subpart BB in the following ways. First, although there is no emission limit for condensable PM in subpart BBa, the EPA is adding condensable PM to the list of pollutants to test to gather data to develop a broader understanding of condensable PM emissions from pulp and paper combustion sources. Second, the EPA is requiring repeat air emissions performance testing once every 5 years for facilities subject to NSPS subpart BBa. This final rule requires repeat air emissions testing for filterable PM, condensable PM and TRS once every 5 years for recovery furnaces, SDTs and lime kilns. Third, the EPA is including Method 16C as another alternative to Method 16 for measuring emissions of TRS from sources subject to the TRS standards in subpart BBa. Method 16C was not available at the time of the original NSPS and 1986 NSPS review. The method was

promulgated on July 30, 2012 (77 FR 44488). Fourth, the EPA is updating the method used to determine whether a kraft recovery furnace is a straight or cross recovery furnace to refer to the latest TAPPI Method T624 cm-11.

As in subpart BB, emission testing for subpart BBa is to be performed under representative operating conditions. Section 60.8(c) of the NSPS General Provisions is replaced in 40 CFR 60.285a(a) with a similar paragraph that states that testing is to be conducted under representative conditions and not during periods of startup, shutdown or malfunction.

4. Reporting and Recordkeeping Requirements

The existing subpart BB requires mills to keep records of TRS and opacity monitoring data along with scrubber and incinerator operating parameter data. The reporting requirements in the existing subpart BB include semiannual reports of performance tests and excess emissions as specified in 40 CFR 60.7(c).

Reporting and recordkeeping requirements are being included as separate sections within subpart BBa. Under this final rule, owners/operators subject to subpart BBa are required to keep records of all TRS and opacity monitoring data; all scrubber, incinerator and ESP operating parameter data; excess emissions; and malfunctions. A facility is required to report all exceedances of the standard, including exceedances that are the result of a malfunction. The malfunction recordkeeping requirements will provide pulp and paper companies with some of the information required to support the assertion of an affirmative defense in the event of a violation due to malfunction. In addition to the recordkeeping requirements specified in subpart BBa, 40 CFR 60.7(b) of the General Provisions requires records of the occurrence and duration of SSM events.

Under this final rule, owners/operators are required to report all performance test results (including electronic copies, as specified in section IV.D below) and excess emissions. Sections 60.7(c)(2) and 60.7(d) of the General Provisions require identification of periods of excess emissions that occur during SSM events. The frequency of reporting under subpart BBa is semiannually, the same as for subpart BB, and consistent with NESHAP requirements. Further, we are including a malfunction report to provide information on each type of malfunction which occurred during the reporting period and which caused or may have caused an exceedance of an emission limit.

5. Other Miscellaneous Differences Between Subpart BBa and Subpart BB

The following lists additional, minor differences between the current subpart BB NSPS and the subpart BBa final rule. This list includes rule differences that address editorial and other corrections. The EPA:

- Revised 40 CFR 60.17 to incorporate by reference ANSI/ASME PTC 19.10–1981 and TAPPI T624 cm-11 for subpart BBa.
- Revised the definitions section in 40 CFR 60.281a to alphabetize definitions; remove paragraph numbers; remove the definition for black liquor oxidation (BLO) system; add definitions for affirmative defense, closed-vent system, condensable PM, filterable PM, HVLC closed-vent system, LVHC closed-vent system and monitoring system malfunction; and revise the definition for digester system to include chip bins using live steam.
- Revised the wording of the PM standard in 40 CFR 60.282a and 40 CFR 60.285a to clarify that the PM emission limits in 40 CFR 60.282a and the Method 5 PM emission test in 40 CFR 60.285a refer to filterable PM, to avoid confusion with the inclusion of Method 202 condensable PM testing.
- Revised the wording of the TRS standard in 40 CFR 60.283a(a)(1) to clarify that only ''one of'' the conditions in 40 CFR 60.283a(a)(1)(i) through (vi) needs to be met in lieu of the 5 ppmdv TRS limit for digester systems, BSW systems, evaporator systems and condensate stripper systems.
- Revised the monitoring provisions in 40 CFR 60.284a(a)(1) and (2) to cite Performance Specifications 1, 3 and 5 for opacity, $O_2$ and TRS continuous monitoring systems, respectively, to conform with 40 CFR 60.284a(f).
- Revised the TRS monitoring provisions in 40 CFR 60.284a(a)(2) to clarify that the range of the continuous monitoring system must encompass all expected concentration values, including the zero and span values used for calibration.
- Revised the monitoring provisions in 40 CFR 60.284a(a)(2)(ii) to specify that the span of $O_2$ monitoring systems is 21 percent instead of 25 percent, so that air can be used instead of a calibration gas in span checks.
- Revised the monitoring and recordkeeping provisions in 40 CFR 60.284a(b)(1) and 40 CFR 60.287a(b)(3) to remove reference to BLO systems which were excluded from NSPS applicability during the 1986 NSPS review.
- Revised the $O_2$ correction equation in 40 CFR 60.284a(c)(1)(iii) for TRS continuous emission monitoring system (CEMS) data to clarify that the concentration to be corrected is a ''12-hour average of the measured concentrations.''
- Revised the excess emissions and recordkeeping provisions in 40 CFR 60.284a(d)(3)(ii) and 40 CFR 60.287a(b)(3) relating to combustion temperature measurements to clarify that the provisions apply when an incinerator is used as the combustion device.
- Added provisions to 40 CFR 60.284a(d)(3)(iii) specifying that periods of excess emissions include all times when gases from digester systems, BSW systems, evaporator systems and condensate stripper systems are not routed through the closed-vent system.
- Revised the provisions in 40 CFR 60.284a(e)(1) to change the period for calculating the monitoring allowance from quarterly to semiannual.
- Revised the citations for the EPA test methods in 40 CFR 60.285a to cite the specific appendices in parts 51 and 60 where the methods are located.
- Used ''must'' instead of ''shall'' throughout subpart BBa, consistent with plain language guidance.

*B. What are the requirements during periods of startup, shutdown and malfunction?*

1. Periods of Startup or Shutdown

In reviewing the standards in subpart BB, and in establishing the standards in the new subpart BBa, the EPA has taken into account startup and shutdown periods and, for the reasons explained below, has not established alternate standards for those periods. Instead, the EPA is promulgating standards that apply at all times, including startup and shutdown periods. We analyzed continuous monitoring data and parametric methods for demonstrating continuous compliance and developed rule provisions pertaining to continuous monitoring that encompass or address startup and shutdown periods. These provisions include:

- Monitoring allowances that specify a certain number of exceedances that will not be considered as violations. These allowances were developed through review of TRS CEMS and continuous opacity monitoring system (COMS) datasets that included SSM periods, and are used in conjunction with ESP parameter monitoring (for opacity) and upper limits (for TRS) to ensure the emission standards are continuous. The PM standard is a

continuous standard that applies at all times.

- A provision for enforcement authorities to consider the uncorrected TRS concentration during periods of startup and shutdown if $O_2$ levels in the stack approach ambient conditions where the $O_2$ correction equation could cause an otherwise-compliant TRS measurement to exceed the applicable emission limit.
- For ESP parameter monitors, provisions that define excess emissions as ESP parameter measurements below the minimum requirements during times when BLS or lime mud is fired (as applicable).
- For ESP parameter monitors used on combined ESP/scrubber systems, language that allows facilities to use only secondary voltage (and not secondary current or total secondary power) to demonstrate compliance during periods of startup and shutdown because secondary current or the total secondary power calculated using secondary current may not meet the operating limit established during the performance test as BLS or lime mud is fired initially.
- For wet scrubber parameter monitors, language that allows facilities to use wet scrubber liquid flow rate (or liquid supply pressure) to demonstrate compliance during periods of startup and shutdown because pressure drop is difficult to achieve during these periods.
- For temperature monitors, a lengthened 3-hour block averaging time, and provisions that acknowledge that the minimum temperature of 1,200 °F is not a requirement during periods when an incinerator is not burning TRS (e.g., during incinerator warm-up and cool-down or when an alternative control device is used).

With the above monitoring provisions that address periods of startup and shutdown, the EPA concluded that alternative standards (e.g., work practices) during startup and shutdown are unnecessary. Two technical memoranda available in the docket for this action (EPA–HQ–OAR–2012–0640) provide our analysis of monitoring systems during startup and shutdown for pulp and paper processes subject to subpart BBa.[1] [2] Additional clarifications relative to the final rule requirements during periods of startup and shutdown are provided in section V.C of this preamble.

2. Periods of Malfunction

Periods of startup, normal operations and shutdown are all predictable and routine aspects of a source's operation. However, by contrast, malfunction is defined as ''any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.'' (40 CFR 60.2) The EPA has determined that section 111 does not require that emissions occurring during periods of malfunction be factored into development of CAA section 111 standards. Nothing in CAA section 111 or in case law requires that the EPA anticipate and account for the innumerable types of potential malfunction events in setting emission standards. CAA section 111 provides that the EPA set standards of performance which reflect the degree of emission limitation achievable through ''the application of the best system of emission reduction'' that the EPA determines is adequately demonstrated. Applying the concept of ''the application of the best system of emission reduction'' to periods during which a source is malfunctioning presents difficulties. The ''application of the best system of emission reduction'' is more appropriately understood to include operating units in such a way as to avoid malfunctions.

Further, accounting for malfunctions would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the category and given the difficulties associated with predicting or accounting for the frequency, degree and duration of various malfunctions that might occur. As such, the performance of units that are malfunctioning is not ''reasonably'' foreseeable. See, e.g., *Sierra Club* v. *EPA*, 167 F. 3d 658, 662 (D.C. Cir. 1999) (the EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to ''invest the resources to conduct the perfect study.''). See also, *Weyerhaeuser* v. *Costle*, 590 F.2d 1011, 1058 (D.C. Cir. 1978) (''In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation.''). In addition, the goal of a ''source that uses the best system of emission reduction'' is to operate in such a way as to avoid malfunctions of the source, and accounting for malfunctions could lead to standards that are significantly less stringent than levels that are achieved by a well-performing non-malfunctioning source. The EPA's approach to malfunctions is consistent with section 111 and is a reasonable interpretation of the statute.

In the event that a source fails to comply with the applicable CAA section 111 standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 111 standard was, in fact, ''sudden, infrequent, not reasonably preventable'' and was not instead ''caused in part by poor maintenance or careless operation.'' See 40 CFR 60.2 (definition of malfunction).

Finally, the EPA recognizes that even equipment that is properly designed and maintained can sometimes fail and that such failure can sometimes cause an exceedance of the relevant emission standard. See, e.g., *State Implementation Plans: Response to Petition for Rulemaking; Findings of Excess Emissions During Periods of Startup, Shutdown, and Malfunction; Proposed rule,* 78 FR 12460 (Feb. 22, 2013); *State Implementation Plans: Policy Regarding Excessive Emissions During Malfunctions, Startup, and Shutdown* (Sept. 20, 1999); *Policy on Excess Emissions During Startup, Shutdown, Maintenance, and Malfunctions* (Feb. 15, 1983). The EPA is, therefore, adding to the final rule an affirmative defense to civil penalties for violations of emission standards in this rule that are caused by malfunctions. (See 40 CFR 60.281a defining ''affirmative defense'' to mean, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding.) We also

[1] *Updated Review of the Continuous Emission Monitoring and Continuous Opacity Monitoring Data from the Pulp and Paper ICR Responses for NSPS Sources.*

[2] *Review of Pulp and Paper Information Collection Request (ICR) Responses Pertaining to Startup and Shutdown of Subpart BB Equipment* (March 22, 2013) (EPA–HQ–OAR–2012–0640–039 thru 045).

have added other regulatory provisions to specify the elements that are necessary to establish this affirmative defense; the source must prove by a preponderance of the evidence that it has met all of the elements set forth in 40 CFR 60.285a. (See 40 CFR 22.24.) The added criteria are designed in part to ensure that the affirmative defense is available only where the event that causes a violation of the emission standard meets the narrow definition of malfunction in 40 CFR 60.2 (sudden, infrequent, not reasonably preventable and not caused by poor maintenance or careless operation). For example, to successfully assert the added affirmative defense, the source must prove by a preponderance of the evidence that violation ''[w]as caused by a sudden, infrequent, and unavoidable failure of air pollution control, process equipment, or a process to operate in a normal or usual manner . . .'' The added criteria also are designed to ensure that steps are taken to correct the malfunction, to minimize emissions in accordance with 40 CFR 60.11(d) and to prevent future malfunctions. For example, under the added criteria, the source must prove by a preponderance of the evidence that ''[r]epairs were made as expeditiously as possible when a violation occurred . . .'' and that ''[a]ll possible steps were taken to minimize the impact of the violation on ambient air quality, the environment and human health . . . .'' In any judicial or administrative proceeding, the Administrator may challenge the assertion of the affirmative defense and, if the respondent has not met its burden of proving all of the requirements in the affirmative defense, appropriate penalties may be assessed in accordance with section 113 of the CAA (see also 40 CFR 22.77).

The EPA included in the final rule an affirmative defense in an attempt to balance a tension, inherent in many types of air regulation, to ensure adequate compliance while simultaneously recognizing that despite the most diligent of efforts, emission standards may be violated under circumstances beyond the control of the source. The EPA must establish emission standards that ''limit the quantity, rate, or concentration of emissions of air pollutants on a continuous basis.'' 42 U.S.C. 7602(k) (defining ''emission limitation'' and ''emission standard''). See generally, *Sierra Club* v. *EPA*, 551 F.3d 1019, 1021 (D.C. Cir. 2008). Thus, the EPA is required to ensure that emission standards are continuous. The affirmative defense for malfunction events meets this requirement by ensuring that even where there is a malfunction, the emission standard is still enforceable through injunctive relief. The United States Court of Appeals for the Fifth Circuit recently upheld the EPA's view that an affirmative defense provision is consistent with section 113(e) of the CAA. *Luminant Generation Co. LLC* v. *United States EPA*, 714 F.3d 841 (5th Cir. Mar. 25, 2013) (upholding the EPA's approval of affirmative defense provisions in a CAA State Implementation Plan). While ''continuous'' standards are required, there is also case law indicating that in many situations it is appropriate for the EPA to account for the practical realities of technology. For example, in *Essex Chemical* v. *Ruckelshaus*, 486 F.2d 427, 433 (D.C. Cir. 1973), the DC Circuit acknowledged that in setting standards under CAA section 111, ''variant provisions'' such as provisions allowing for upsets during startup, shutdown and equipment malfunction ''appear necessary to preserve the reasonableness of the standards as a whole and that the record does not support the 'never to be exceeded' standard currently in force.'' See also, *Portland Cement Association* v. *Ruckelshaus*, 486 F.2d 375 (D.C. Cir. 1973). Though these earlier cases may no longer represent binding precedent in light of the CAA 1977 amendments and intervening case law such as *Sierra Club* v. *EPA*, they nevertheless support the EPA's view that a system that incorporates some level of flexibility is reasonable and appropriate. The affirmative defense simply provides for a defense to civil penalties for violations that are proven to be beyond the control of the source. Through the incorporation of an affirmative defense, the EPA has formalized its approach to malfunctions. In a Clean Water Act (CWA) setting, the Ninth Circuit required this type of formalized approach when regulating ''upsets beyond the control of the permit holder.'' *Marathon Oil Co.* v. *EPA*, 564 F.2d 1253, 1272–73 (9th Cir. 1977). See also, *Mont. Sulphur & Chem. Co.* v. *United States EPA*, 666 F.3d. 1174 (9th Cir. 2012) (rejecting industry argument that reliance on the affirmative defense was not adequate). But see, *Weyerhaeuser Co.* v. *Costle*, 590 F.2d 1011, 1057–58 (D.C. Cir. 1978) (holding that an informal approach is adequate). The final affirmative defense provisions give the EPA the flexibility to both ensure that its emission standards are ''continuous'' as required by 42 U.S.C. 7602(k), and account for unplanned upsets and thus support the reasonableness of the standard as a whole. The EPA is promulgating the affirmative defense applicable to malfunctions under the delegation of general regulatory authority set out in section 301(a)(1) of the CAA, 42 U.S.C. 7601(a)(1), in order to balance this tension between provisions of the Act and the practical reality, as case law recognizes, that technology sometimes fails. See generally, *Citizens to Save Spencer County* v. *U.S. Environmental Protection Agency*, 600 F.2d 844, 873 (D.C. Cir. 1979) (using section 301(a) authority to harmonize inconsistent guidelines related to the implementation of federal preconstruction review requirements).

*C. What are the effective and compliance dates of the standards?*

The provisions of subpart BBa being promulgated in this action are effective on April 4, 2014. Emission units that commence construction, reconstruction or modification after May 23, 2013, must comply with the provisions of subpart BBa by April 4, 2014 or upon startup, whichever is later.

The initial performance test must be conducted within 60 days after achieving the maximum production rate at which the affected facility will be operated, but no later than 180 days after initial startup per 40 CFR 60.8(a). The first of the 5-year repeat tests must be conducted no later than 5 years following the initial performance test, and thereafter within 5 years from the date of the previous performance test. The date to submit performance test data through ERT is within 60 days after the date of completing each performance test.

*D. What are the requirements for submission of performance test data to the EPA?*

For the reasons provided in the proposed rule preamble, in subpart BBa the EPA is requiring owners and operators of kraft pulp mills to submit electronic copies of required performance test and performance evaluation reports to the EPA's WebFIRE database. Data will be entered through an electronic emissions test report structure called the ERT. The ERT will generate an electronic report which will be submitted using the Compliance and Emissions Data Reporting Interface (CEDRI). The submitted report will be stored in both EPA's Central Data Exchange (CDX) archive (the official copy of record) and in the WebFIRE database, making access to data very straightforward and easy. A description and instructions for use of the ERT can be found at *http://www.epa.gov/ttn/chief/ert/index.html*,

and CEDRI can be accessed through the CDX Web site (*www.epa.gov/cdx*). A description of the WebFIRE database is available at: *http://cfpub.epa.gov/oarweb/index.cfm?action=fire.main*.

The requirement to submit performance test data electronically to the EPA applies only to those performance tests conducted using test methods that are supported by the ERT.[3] The ERT supports most of the commonly used EPA reference methods. A listing of the pollutants and test methods supported by the ERT is available at: *http://www.epa.gov/ttn/chief/ert/index.html.*

As explained in the proposal preamble, in addition to supporting regulation development, control strategy development and other air pollution control activities, having an electronic database populated with performance test data will save industry, state, local, tribal agencies and the EPA significant time, money and effort while also improving the quality of emission inventories and air quality regulations.

## V. Summary of Significant Changes Following Proposal

The following sections summarize the significant changes made to subpart BBa for this final rule to respond to public comments and to correct technical inconsistencies or editorial errors in the proposal. A detailed discussion of these and other public comments can be found in the response-to-comments document, available in Docket ID Number EPA–HQ–OAR–2012–0640.[4]

### *A. TRS Vent Gas Collection*

The final subpart BBa rule, as proposed, allows sources to comply with the TRS standards for digester systems, BSW systems, evaporator systems and condensate stripper systems by venting emissions to a combustion device such as a lime kiln, recovery furnace, incinerator or other device (e.g., a boiler) or a non-combustion device. Industry commenters expressed concern that the proposed provisions were not consistent with the corresponding hazardous air pollutant (HAP) reduction provisions in subpart S which specify requirements for closed-vent collection systems. Separately, another commenter expressed concern that the use of contaminated flash steam during chip steaming can lead to the release of TRS compounds, volatile organic compounds (VOC) and HAPs and urged the EPA to ensure standards are in place to prevent release of emissions.

In response to these concerns and to promote consistency with the subpart S requirements for closed-vent collection systems, we added provisions to this final rule requiring that sources collect and transport the vent gases through HVLC or LVHC closed-vent systems to incineration or other control devices, to match what is required under subpart S. We added definitions for ''closed-vent system,'' ''high-volume, low-concentration (HVLC) closed-vent system,'' and ''low-volume, high-concentration (LVHC) closed-vent system'' to this final rule to eliminate any conflicts with the subpart S excess emission allowances for closed-vent systems. We defined excess emissions as all times when gases are not routed through the closed-vent system. We also revised the definition for ''digester system'' to specifically include chip bins using live steam (flash steam) to clarify that these units are subject to regulation under subpart BBa as part of the digester system.

Further, an industry commenter made the specific comment that, with the removal of the SSM exemption, there are no provisions in subpart BBa specifically addressing short periods of safety-related venting of gases from digester systems, brown stock washer systems, multiple-effect evaporator systems or condensate stripper systems. According to the commenter, best available technology includes unavoidable periods when vent gases cannot be routed to the control device for safety reasons or when the control device is inoperable or necessarily operating at a reduced rate due to a malfunction. The subpart S excess emission allowances (see 40 CFR 63.443(e)(1)–(3)), currently address these types of excess emissions. The SSM exemption was previously removed from subpart S (77 FR 55698). The commenter noted that they provided more detail in previously submitted comments on subpart S which they attached for consideration. The commenter recommended that the EPA adopt the excess emission provisions in subpart S for digester, brown stock washer, evaporator and stripper systems covered by subpart BBa. We did not intend to propose a standard that removed the use of these allowances for NSPS units, creating a standard more stringent than the NESHAP. Therefore, we have added language in this final rule that recognizes the current subpart S excess emission provisions for closed-vent systems. (Further discussion of the EPA's anticipated review of the subpart S excess emission provisions is provided below.) These provisions define excess emissions as all times when gases are not routed through the closed-vent system. (See 40 CFR 60.284a(d).) We also addressed short periods of safety-related venting in 40 CFR 60.284a(e), which provides limited allowances of 1 percent of semiannual operating time for LVHC systems, or 4 percent of semiannual operating time for HVLC or combined LVHC/HVLC systems. As long as these time periods are not exceeded, excess emissions associated with short periods of safety-related venting will not be considered in violation of the closed-vent system requirements added to 40 CFR 60.283a(a)(1)(i) through (iii) and (v). Affected facilities are required to maintain and operate with good air pollution control practice for minimizing emissions during periods of excess emissions (including during safety-related venting), as specified in 40 CFR 60.284a(e)(2) of subpart BBa.

We acknowledge that representatives of the pulp and paper industry have submitted a petition for reconsideration of the final 40 CFR part 63, subpart S risk and technology (RTR) rule relating to safety-related venting of pulp mill vent gases.[5] Additionally, in the subpart S RTR action (77 FR 55698) we deferred action on the review of the 40 CFR 63.443(e) excess emission allowances. We have acted at this time to create consistency between subpart BBa and subpart S in how these episodes are handled. However, we note that, when the EPA reviews the subpart S excess emission allowances, we will consider whether actions that we take after conducting that subpart S review should result in revisions to the NSPS for kraft pulp mills. It should also be noted that the standards in subpart S apply to HAP emissions from a broad range of pulp mill sources and will be applicable to existing sources, while the subpart BBa TRS standards will apply only for the small subset of subpart S sources that are constructed, modified or reconstructed after May 23, 2013. Consequently, if the subpart S standards are amended to become more stringent

[3] As of March 2014, Methods 5, 17 and 202 are the test methods referenced in subpart BBa that are included in ERT. Methods 16, 16A, 16B, and 16C for TRS measurement are not yet supported by ERT. However, Method 16 (and variant) testing conducted after Methods 16, 16A, 16B, 16C are programmed into the ERT will be required to be reported electronically.

[4] See the memorandum in the docket titled, *Kraft Pulp Mills New Source Performance Review (40 CFR Part 60, Subpart BBa), Final Amendments: Response to Public Comments on May 23, 2013 Proposal.*

[5] Letter from P. Noe, AF&PA, to Lisa Jackson. *Petition for Reconsideration of National Emission Standards for Hazardous Air Pollutants From the Pulp and Paper Industry; Final Rule,* 77 FR 55698 (Sept. 11, 2012).

with respect to pulp mill safety-related venting, then those amended subpart S standards will apply equally to subpart BBa sources, because all subpart BBa sources (as well as all subpart BB sources and any sources subject to future revisions to the Kraft Pulp Mill NSPS) will also be subject to subpart S (including any revisions made to it in the future), regardless of when the next NSPS review to update subpart BBa is performed.

*B. Startup, Shutdown and Malfunction*

One commenter supported and multiple commenters objected to our proposal to remove the SSM exemption from the subpart BBa standards. The rationale for our removal of the SSM exemption was provided in the preamble to the proposed rule, is provided in section IV.B of this preamble, and is also discussed in the response-to-comments document [6] along with a description of the revisions to the NSPS monitoring requirements made to ensure that the NSPS provisions remain achievable following removal of the SSM exemption.

Multiple commenters expressed confusion regarding the provisions in the proposed rule briefly stating that the PM and TRS standards apply at all times (40 CFR 60.282a(b) and 40 CFR 60.283a(b), respectively). The comments revealed confusion regarding which paragraphs of the NSPS General Provisions relating to SSM are superseded by subpart BBa or remain applicable. In response to these comments, we revised 40 CFR 60.282a(b) and 40 CFR 60.283a(b) to clarify that the standards apply at all times as specified in the monitoring and testing provisions of the rule (40 CFR 60.284a and 40 CFR 60.285a) and to clarify the relationship between the continuous standards and provisions for testing, monitoring and the monitoring allowances in subpart BBa. We also offer the following clarifications relative to the relationship between the General Provisions and subpart BBa:

- The definitions of SSM in 40 CFR 60.2 apply to subpart BBa.
- The requirement to maintain records of SSM periods and periods when continuous monitoring systems are inoperative under 40 CFR 60.7(b) applies to subpart BBa.
- The requirements under 40 CFR 60.7(c)(2) to identify in the excess emissions report each period of excess emissions that occurs during SSM and the nature of any malfunction apply to subpart BBa.
- Inclusion of startup and shutdown in the summary report format provided in 40 CFR 60.7(d) applies for subpart BBa.
- The 40 CFR 60.11(c) exemption from the opacity standards during SSM is superseded for subpart BBa by 40 CFR 60.282a(c).
- The 40 CFR 60.11(d) requirement to use good air pollution control practices at all times including SSM applies to subpart BBa.

Furthermore, we added a clarifying statement to 40 CFR 60.285a(a) to repeat only the portion of 40 CFR 60.8(c) that applies under subpart BBa (i.e., the requirement that performance tests be conducted under representative conditions applies). The SSM exemption phrase ''nor shall emissions in excess of the level of the applicable emission limit during periods of startup, shutdown and malfunction be considered a violation of the applicable emission limit unless otherwise specified in the applicable standard'' was eliminated from the revised wording of 40 CFR 60.8(c) incorporated into subpart BBa in light of the DC Circuit's decision in *Sierra Club* v. *EPA* vacating the 40 CFR part 63 SSM exemption provisions. The revised wording in 40 CFR 60.285a(a) of subpart BBa supersedes 40 CFR 60.8(c).

*C. Opacity Monitoring*

One commenter questioned whether a source controlled by an ESP/scrubber combination would be relieved from meeting the opacity requirements in this final rule. In response to this comment, we revised the opacity standards for recovery furnaces and lime kilns to clarify that units equipped with a combination ESP and wet scrubber system are not subject to the opacity standards, because opacity monitoring is not appropriate for these units. This does not create an exemption or a standard that does not apply at all times because continuous compliance with the filterable PM standards is demonstrated through ESP and wet scrubber parameter monitoring for combined ESP/scrubber systems.

*D. TRS and Oxygen Monitoring*

*Measurements exceeding instrument span.* Three commenters requested that the EPA clarify the procedure for reporting and treatment of uncorrected TRS concentrations that exceed the span value (30 ppmdv) for the TRS CEMS instrument. In response to these comments, we note that data above the instrument span have value and are required to be included in any CEMS hourly average or other long-term rolling average calculation; otherwise, facilities could inappropriately dismiss noncompliant values as invalid data. Consequently, we added language to the final rule to clarify that the range of the continuous monitoring system must encompass all expected concentration values, including the zero and span values used for calibration.

*Recovery furnace upper limit.* One commenter argued that it was inappropriate for the EPA to use data from straight recovery furnaces to establish the TRS monitoring allowance upper limit for cross recovery furnaces. In response to this comment, we revised this final rule to clarify that the 1-percent allowance, restricted to 30 ppmdv, applies to TRS emissions from straight recovery furnaces. The cross recovery furnace TRS emission limit is higher than the straight recovery TRS limit for three technical reasons. First, the sulfur content of the semichemical liquor is higher than traditional kraft liquor. Second, the heat content of the liquor is lower because it contains less organic material than kraft liquor due to higher pulping yields. Third, the heavier sulfur loading and the lower operating temperature puts a restriction on the amount of excess $O_2$ available to oxidize the sulfur compounds. Because we do not have continuous monitoring data for cross recovery furnaces to analyze (with no known cross recovery furnaces subject to NSPS at this time), we are setting the upper TRS limit for cross recovery furnaces at the instrument span of 50 ppmdv for these units. This upper limit can be reevaluated during the next NSPS review should data become available for cross recovery furnaces subject to NSPS in the future.

*E. Temperature Monitoring*

One commenter recommended that the temperature monitoring requirement should only apply when TRS control is achieved in a stand-alone incinerator and requested that the EPA make this clarification in this final rule. The commenter noted that temperature monitoring is not required in subpart S for boilers, lime kilns and recovery furnaces that combust pulping vent gases because these units normally operate at temperatures higher than 1,200 °F. We revised the relevant provisions of subpart BBa to clarify that combustion temperature monitoring is required only when an incinerator is used as the combustion device in response to this comment.

[6] See the memorandum in the docket titled, *Kraft Pulp Mills New Source Performance Review (40 CFR Part 60, Subpart BBa), Final Amendments: Response to Public Comments on May 23, 2013 Proposal.*

*F. ESP Parameter Monitoring*

Two commenters requested that the EPA add total secondary power as an alternative to monitoring ESP secondary voltage and secondary current for recovery furnace ESPs to be consistent with the monitoring alternative provided in the proposed rule for lime kiln ESPs. We made the conforming edits requested to clarify our intent, as proposed, that monitoring of total secondary power is an alternative for recovery furnace ESPs.

Another commenter requested that the EPA use only ESP secondary voltage monitoring to determine compliance during periods of startup and shutdown for combined ESP/scrubber control systems. The commenter explained that the first 12-hour block average ESP secondary current (or total secondary power) may not be within the range achieved during the last performance test, as firing of BLS or lime mud increases or decreases during startup or shutdown, but the ESP would still be operating optimally using its automated power management system. The commenter requested that the EPA exclude from the definition of excess emissions all 12-hour average measurements of secondary current (or total secondary power) during startup and shutdown that are less than the site-specific operating parameter limits, as it has done for scrubber pressure drop. We agree with the commenter that secondary current (or total secondary power) can vary during startup and shutdown. We changed the definition of ESP-related excess emissions for combined ESP/scrubber controls in 40 CFR 60.284a(d)(5) in response to this comment to include all 12-hour block averages of ESP secondary voltage below the minimum operating limit at all times (including startup and shutdown), and 12-hour block averages of secondary current (or total secondary power) below the minimum operating limit at all times except during startup and shutdown. The rule changes make the startup/shutdown accommodations for ESPs comparable to the parameter monitoring requirements for wet scrubbers during startup and shutdown. This definitional change does not apply for ESP systems that have longer averaging periods in conjunction with an opacity limit. For further discussion, see the response-to-comments document found in the docket.

*G. Averaging Period for Determining Monitoring Allowances*

In response to our request for comment on whether a quarterly or semiannual period would be more appropriate for calculation of the monitoring allowances in 40 CFR 60.284a(e), multiple commenters supported a semiannual period. One state agency commenter specifically supported changing the ESP parameter averaging period from quarterly to semiannually when an opacity monitor is also used on the ESP. The commenter also supported using a semiannual instead of a quarterly basis for determining the TRS and opacity monitoring allowances. In response to these comments and consistent with the semiannual reporting frequency for subpart BBa, we revised the period for calculating the opacity and TRS monitoring allowances from quarterly to semiannually. We made a corresponding change to a semiannual basis for the ESP parameter averaging period for ESPs that also monitor opacity.

*H. Other Miscellaneous Changes*

A few additional changes were made to the proposed rule either as a result of public comments, to correct references or to ensure conformity among the various rule sections. These changes are described below.

*BLO systems.* One commenter asked that the EPA remove outdated references to BLO systems from the rule because subpart BBa does not contain any specific requirements for these systems. We agree with this editorial change and removed the definition of ''black liquor oxidation system'' and other inadvertently remaining references to BLO systems from this final rule. The 1986 review of the kraft pulp mills NSPS removed the BLO system from the list of regulated emission units.

*Testing frequency.* One commenter requested that the EPA revise the repeat testing frequency from once every 60 months to once every 5 years to provide maximum operational flexibility. In particular, the requested change would make clear that the repeat testing could be done at any point during the fifth calendar year (which is consistent with the requirements for CAA title V permitting) as opposed to requiring testing to be done during the 60th month. We agree with the commenter and revised the testing provisions of this final rule accordingly.

*Performance specifications.* In the proposed rule, we specified that sources must install, certify and operate their opacity and TRS continuous monitoring systems in accordance with Performance Specifications 1 and 5, respectively, in Appendix B to 40 CFR part 60. To correct an oversight, we added a citation to this final rule for Performance Specification 3 for the $O_2$ continuous monitoring system used to correct the TRS CEMS data for $O_2$ concentration.

*Incorporation by reference.* In reviewing the testing provisions in subpart BBa for the final rule, we noted that the test method for determining whether a kraft recovery furnace is a straight or cross recovery furnace, which is cited in this final rule and incorporated by reference in 40 CFR 60.17 as TAPPI T624 os-68, is out-of-date, as is the address for obtaining a copy of the method. We updated the testing provisions in this final rule and the IBR provisions in 40 CFR 60.17 to cite the latest version of the method—TAPPI T624 cm-11. We also updated 40 CFR 60.17 to cite the current address for obtaining a copy of the method.

## VI. Summary of Cost, Environmental, Energy and Economic Impacts

In setting standards, the CAA requires us to consider alternative emission control approaches, taking into account the estimated costs as well as impacts on energy, solid waste and other effects.

The EPA presented estimates of the impacts for subpart BBa, which revises the performance standards for new, modified or reconstructed emission units at kraft pulp mills, in the preamble to the proposed rule and in the docket for this rulemaking. (See 78 FR 31331–31332, and the memorandum, *Emissions Inventory for Kraft Pulp Mills and Costs/Impacts of the Section 111(b) Review of the Kraft Pulp Mills NSPS.*) These impact estimates have not changed since proposal because we have not changed any rule requirements in a way that would alter the projected number of affected facilities or costs of compliance. While we added language to subpart BBa to clarify that TRS emissions from new, modified or reconstructed pulping emission sources must be delivered to incineration or other controls through a closed-vent collection system as required under 40 CFR 63.450 of subpart S, there is no incremental cost associated with this requirement in subpart BBa because the closed-vent collection system standards are already required for new and existing sources under subpart S.

The EPA estimates that the total increase in nationwide annual cost associated with this final rule is $389,900 for all of the emission units projected to be constructed, modified or reconstructed between 2013 and 2018. Costs are based on the third quarter of 2012. The impacts are expressed as incremental differences between the impacts of emission units complying with subpart BBa and the baseline (e.g.,

NSPS subpart BB or NESHAP subpart MM) requirements for these sources. The impacts represent emission units at kraft pulp mills projected to commence construction, reconstruction or modification over the 5 years following May 23, 2013. No additional control devices or other equipment are expected to be needed to meet the NSPS requirements beyond those that would already be installed to meet the baseline requirements for these emission units. Thus, no emission reductions, energy impacts or secondary air emission impacts are expected to result from this final rule.

This final action is not expected to induce measurable changes in the average national price and production of pulp and paper products. Hence, the overall economic impact of this NSPS should be minimal on the affected industries and their consumers. For more information, please refer to the memorandum, *Economic Impact Analysis for the Section 111(b) Review of the Kraft Pulp Mills New Source Performance Standards Subpart BB,* in the docket for this rulemaking.

## VII. Statutory and Executive Order Reviews

### *A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is, therefore, not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

The EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis is contained in the memorandum, *Economic Impact Analysis for the Section 111(b) Review of the Kraft Pulp Mills New Source Performance Standards Subpart BB.* A copy of the analysis is available in the docket for this action.

### *B. Paperwork Reduction Act*

The information collection requirements in this final rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* The information collection requirements are not enforceable until OMB approves them.

These revisions to the NSPS for Kraft Pulp Mills for future affected sources include different emission limits and continuous monitoring requirements and additional performance testing from what is in subpart BB. The additional performance testing requirements for recovery furnaces, SDTs and lime kilns include initial testing for condensable PM and 5-year repeat testing for filterable PM, condensable PM and TRS. The monitoring requirements include a different opacity limit and monitoring allowance for recovery furnaces, restriction of the monitoring allowances for TRS to an upper concentration limit, continuous opacity monitoring for lime kilns equipped with ESPs and continuous ESP parameter monitoring for recovery furnaces and lime kilns equipped with ESPs. These testing and monitoring requirements are in addition to the initial performance testing and continuous monitoring requirements described in section IV.A of this preamble, which are required under the current subpart BB.

The recordkeeping and reporting requirements associated with these testing and monitoring provisions are specifically authorized by CAA section 114 (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to the EPA policies set forth in 40 CFR part 2, subpart B.

When a malfunction occurs, sources must report it according to the applicable reporting requirements of 40 CFR part 60, subpart BBa. An affirmative defense to civil penalties for violations of emission standards that are caused by malfunctions is available to a source if it can demonstrate that certain criteria and requirements are satisfied. In addition, the source must meet certain notification and reporting requirements. For example, the source must prepare a written root cause analysis and submit a written report to the Administrator documenting that it has met the conditions and requirements for assertion of the affirmative defense.

For this final rule, the EPA is considering the affirmative defense in its estimate of burden in the information collection request (ICR). To provide the public with an estimate of the relative magnitude of the burden associated with an assertion of the affirmative defense position adopted by a source, the EPA has provided administrative adjustments to the ICR that shows what the notification, recordkeeping and reporting requirements associated with the assertion of the affirmative defense might entail. The EPA's estimate for the required notification, reports and records, including the root cause analysis associated with a single incident totals approximately $3,375, and is based on the time and effort required of a source to review relevant data, interview plant employees and document the events surrounding a malfunction that has caused a violation of an emission limit. The estimate also includes time to produce and retain the records and reports for submission to the EPA.

The EPA provides this illustrative estimate of this burden because these costs are only incurred if there has been a violation and a source chooses to take advantage of the affirmative defense. Given the variety of circumstances under which malfunctions could occur, as well as differences among sources' operation and maintenance practices, the EPA cannot reliably predict the severity and frequency of malfunction-related excess emission events for a particular source. It is important to note that the EPA has no basis currently for estimating the number of malfunctions that would qualify for an affirmative defense. Current historical records would be an inappropriate basis, as source owners or operators previously operated their facilities in recognition that they were exempt from the requirement to comply with emission standards during malfunctions. Of the number of violation events reported by source operators, only a small number would be expected to result from a malfunction (based on the definition of a malfunction in 40 CFR 60.2), and only a subset of violations caused by malfunctions would result in the source choosing to assert the affirmative defense. Thus, the EPA believes the number of instances in which source operators might be expected to avail themselves of the affirmative defense will be extremely small.

For this reason, the EPA estimates no more than two such occurrences for all sources subject to 40 CFR part 60, subpart BBa over the 3-year period covered by the ICR. The EPA expects to gather information on such events in the future and will revise this estimate as better information becomes available.

The annual burden for this information collection averaged over the first 3 years of this ICR is estimated to total 1,905 labor-hours per year at a cost of $186,324/yr. The annualized capital costs are estimated at $411,300/yr. The annual operating and maintenance (O&M) costs are $155,880/yr. The total annualized capital and O&M costs are $567,180/yr. Burden is defined in 5 CFR 1320.3(b).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control

numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When this ICR is approved by OMB, the agency will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control number for the approved information collection requirements contained in this final rule.

*C. Regulatory Flexibility Act*

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that this rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations and small governmental jurisdictions.

For purposes of assessing the impacts of this final rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This certification is based on the economic impact of this action to all affected small entities. Only two small entities may be impacted by this final rule. The EPA estimates that all affected small entities will have annualized costs of less than 0.1 percent of their sales. Thus, the EPA concludes that this final rule will not have a significant economic impact on a substantial number of small entities.

For more information on the small entity impacts associated with this rule, please refer to the memorandum, *Economic Impact Analysis for the Section 111(b) Review of the Kraft Pulp Mills New Source Performance Standards Subpart BB,* in the public docket. Although this final rule will not have a significant economic impact on a substantial number of small entities, the EPA nonetheless tried to reduce the impact of this final rule on small entities. When developing these standards, the EPA took special steps to ensure that the burdens imposed on small entities were minimal. The EPA conducted several meetings with the industry trade association to discuss regulatory options and the corresponding burden on industry, such as recordkeeping and reporting and impacts on existing sources that are modified.

*D. Unfunded Mandates Reform Act*

This final rule does not contain a federal mandate that may result in expenditures of $100 million or more for state, local and tribal governments, in the aggregate, or to the private sector in any one year. This final rule is not expected to impact state, local or tribal governments. The nationwide annualized cost of this final rule for affected industrial sources is estimated to be $389,900/yr. Thus, this final rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act (UMRA).

This final rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This final rule will not apply to such governments and will not impose any obligations upon them.

*E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. None of the facilities subject to this action are owned or operated by state governments, and nothing in this final rule will supersede state regulations. Thus, Executive Order 13132 does not apply to this rule.

*F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It will not have substantial direct effects on tribal governments, on the relationship between the federal government and Indian tribes or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified in Executive Order 13175. This final rule imposes requirements on owners and operators of kraft pulp mills and not tribal governments. The EPA does not know of any kraft pulp mills owned or operated by Indian tribal governments. However, if there are any, the effect of this rule on communities of tribal governments would not be unique or disproportionate to the effect on other communities. Thus, Executive Order 13175 does not apply to this action.

*G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks*

The EPA interprets Executive Order 13045 (62 FR 19885, April 22, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is based solely on an analysis of the degree of emission reduction that is achievable through the application of the best system of emissions reduction, as provided in CAA section 111.

*H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use*

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Public Law 104–113 (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) that are developed or adopted by VCS bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable VCS.

This rulemaking involves technical standards. The EPA has decided to use one VCS in this rulemaking. The VCS, ASME PTC 19.10–1981, ''Flue and Exhaust Gas Analyses,'' is cited in this rule for its manual method of measuring the content of the exhaust gas as an acceptable alternative to EPA Method 3B of 40 CFR part 60, appendix A–2. This standard is available at *http://www.asme.org* or by mail at the American Society of Mechanical Engineers (ASME), Two Park Avenue, New York, NY 10016–5990.

The EPA has identified two other VCS as being potentially applicable to this final rule. The first, ASTM D7520–09, is an alternative to Method 9 (see part 60, appendix A–4 for a description of Method 9). This final rule currently provides the use of COMS as an alternative to Method 9; therefore, the EPA has decided not to use ASTM D7520–09 in this rulemaking. The second, ANSI/ASME PTC 19–10–1981–Part 10, is an alternative to Method 16A (see part 60, appendix A–6 for a description of Method 16A). The EPA is incorporating this VCS as an alternative to Method 3B above, but is not incorporating it as an alternative to Method 16A because it is an alternative for only the manual portion and not the instrumental portion of Method 16A, and sources are already allowed four EPA methods for measuring TRS (Methods 16, 16A, 16B and 16C). See the docket for this rule for the reasons for these determinations.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States.

The EPA has concluded that it is not practicable to determine whether there would be disproportionately high and adverse human health or environmental effects on minority, low income or indigenous populations from this final rule as it is unknown where new facilities will be located and the EPA does not expect new facilities to be built. However, the agency has reviewed the areas surrounding all existing kraft pulp mills to determine if there is an overrepresentation of minority, low income or indigenous populations near the sources, such that they may currently face disproportionate risks from pollutants.

To gain a better understanding of the source category and near source populations, the EPA conducted a demographic analysis on the source category for this rulemaking. This analysis only gives some indication of the prevalence of subpopulations that may be exposed to air pollution from the sources and, therefore, would be those populations that may be expected to benefit most from this regulation; it does not identify the demographic characteristics of the most highly affected individuals or communities, nor does it quantify the level of risk faced by those individuals or communities. The data show that most demographic categories were below or within 20 percent of their corresponding national averages except for the African American population percentage within three miles of any source potentially affected by this rulemaking. This segment of the population exceeds the national average by 5 percentage points (18 percent v. 13 percent), or plus 38 percent. There is no indication that this segment of the population faces an unacceptable risk from emissions from these sources. However, the additional information that will be collected from the increase in testing requirements with this rule is expected to better inform the agency of the emissions associated with this source category. This will ensure better compliance with this final rule and will result in this rule being more protective of human health. The demographic analysis results and the details concerning their development are presented in the September 18, 2012, memorandum titled, *Environmental Justice Review: Kraft Pulp Mills NSPS,* a copy of which is available in the docket for this action (EPA–HQ–OAR–2012–0640).

*K. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801, *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that, before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this final rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This final rule will be effective on April 4, 2014.

**List of Subjects in 40 CFR Part 60**

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 14, 2014.

**Gina McCarthy,**

*Administrator.*

As described in the preamble above, the EPA amends 40 CFR part 60 as follows:

## PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

### Subpart A—[Amended]

■ 2. Section 60.17 is amended by:
■ a. Revising paragraph (f) introductory text,
■ b. Revising paragraph (f)(14),
■ c. Revising paragraph (o) introductory text, and
■ d. Revising paragraph (o)(1).

The amendments read as follows:

**§ 60.17 Incorporations by reference.**

* * * * *

(f) The following material is available for purchase from the American Society of Mechanical Engineers (ASME), Two Park Avenue, New York, NY 10016–5990, Telephone (800) 843–2763, and is also available at the following Web site: *http://www.asme.org.* * * * * *

(14) ASME/ANSI PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], (Issued August 31, 1981), IBR approved for §§ 60.56c(b), 60.63(f), 60.106(e), 60.104a(d), (h), (i), and (j), 60.105a(d), (f), and (g), § 60.106a(a), § 60.107a(a), (c), and (d), tables 1 and 3 to subpart EEEE, tables 2 and 4 to subpart FFFF, table 2 to subpart JJJJ, § 60.285a(f), §§ 60.4415(a), 60.2145(s) and (t), 60.2710(s) (t), and (w), 60.2730(q), 60.4900(b), 60.5220(b), tables 1 and 2 to subpart LLLL, tables 2 and 3 to subpart MMMM, §§ 60.5406(c) and 60.5413(b).

* * * * *

(o) The following material is available for purchase from the Technical Association of the Pulp and Paper Industry (TAPPI), 15 Technology Parkway South, Suite 115, Peachtree Corners, GA 30092, Telephone (800) 332–8686, and is also available at the following Web site: *http://www.tappi.org.*

(1) TAPPI Method T 624 cm-11, (Copyright 2011), IBR approved, for §§ 60.285(d) and 60.285a(d).

* * * * *

■ 3. Section 60.280 is amended by revising paragraph (b) to read as follows:

**§ 60.280 Applicability and designation of affected facility.**

* * * * *

(b) Except as noted in § 60.283(a)(1)(iv), any facility under paragraph (a) of this section that commences construction, reconstruction, or modification after September 24, 1976, and on or before May 23, 2013 is subject to the requirements of this subpart. Any facility under paragraph (a) of this section that commences construction, reconstruction, or modification after May 23, 2013 is subject to the requirements of subpart BBa of this part.

■ 4. Add subpart BBa to read as follows:

**Subpart BBa—Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013**

Sec.

60.280a Applicability and designation of affected facility.
60.281a Definitions.
60.282a Standard for filterable particulate matter.
60.283a Standard for total reduced sulfur (TRS).
60.284a Monitoring of emissions and operations.
60.285a Test methods and procedures.
60.286a Affirmative defense for violations of emission standards during malfunction.
60.287a Recordkeeping.
60.288a Reporting.

## Subpart BBa—Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013

**§ 60.280a Applicability and designation of affected facility.**

(a) The provisions of this subpart are applicable to the following affected facilities in kraft pulp mills: digester system, brown stock washer system, multiple-effect evaporator system, recovery furnace, smelt dissolving tank, lime kiln and condensate stripper system. In pulp mills where kraft pulping is combined with neutral sulfite semichemical pulping, the provisions of this subpart are applicable when any portion of the material charged to an affected facility is produced by the kraft pulping operation.

(b) Except as noted in § 60.283a(a)(1)(iv), any facility under paragraph (a) of this section that commences construction, reconstruction or modification after May 23, 2013, is subject to the requirements of this subpart. Any facility under paragraph (a) of this section that commenced construction, reconstruction, or modification after September 24, 1976, and on or before May 23, 2013 is subject to the requirements of subpart BB of this part.

**§ 60.281a Definitions.**

As used in this subpart, all terms not defined herein must have the same meaning given them in the Act and in subpart A.

*Affirmative defense* means, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding.

*Black liquor solids* (BLS) means the dry weight of the solids which enter the recovery furnace in the black liquor.

*Brown stock washer system* means brown stock washers and associated knotters, vacuum pumps, and filtrate tanks used to wash the pulp following the digester system. Diffusion washers are excluded from this definition.

*Closed-vent system* means a system that is not open to the atmosphere and is composed of piping, ductwork, connections, and, if necessary, flow-inducing devices that transport gas or vapor from an emission point to a control device.

*Condensable particulate matter,* for purposes of this subpart, means particulate matter (PM) measured by EPA Method 202 of Appendix M of 40 CFR part 51 that is vapor phase at stack conditions, but condenses and/or reacts upon cooling and dilution in the ambient air to form solid or liquid PM immediately after discharge from the stack.

*Condensate stripper system* means a column, and associated condensers, used to strip, with air or steam, total reduced sulfur (TRS) compounds from condensate streams from various processes within a kraft pulp mill.

*Cross recovery furnace* means a furnace used to recover chemicals consisting primarily of sodium and sulfur compounds by burning black liquor which on a quarterly basis contains more than 7 weight percent of the total pulp solids from the neutral sulfite semichemical process and has a green liquor sulfidity of more than 28 percent.

*Digester system* means each continuous digester or each batch digester used for the cooking of wood in white liquor, and associated flash tank(s), blow tank(s), chip steamer(s) including chip bins using live steam, and condenser(s).

*Filterable particulate matter,* for purposes of this subpart, means particulate matter measured by EPA Method 5 of Appendix A–3 of this part.

*Green liquor sulfidity* means the sulfidity of the liquor which leaves the smelt dissolving tank.

*High volume, low concentration (HVLC) closed-vent system* means the gas collection and transport system used to convey gases from the brown stock washer system to a control device.

*Kraft pulp mill* means any stationary source which produces pulp from wood by cooking (digesting) wood chips in a water solution of sodium hydroxide and sodium sulfide (white liquor) at high temperature and pressure. Regeneration of the cooking chemicals through a recovery process is also considered part of the kraft pulp mill.

*Lime kiln* means a unit used to calcine lime mud, which consists primarily of calcium carbonate, into quicklime, which is calcium oxide.

*Low volume, high concentration (LVHC) closed-vent system* means the gas collection and transport system used to convey gases from the digester system, condensate stripper system, and multiple-effect evaporator system to a control device.

*Monitoring system malfunction* means a sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. The owner or operator is required to implement monitoring system repairs in response to monitoring system malfunctions or out-of-control periods, and to return the monitoring system to operation as expeditiously as practicable.

*Multiple-effect evaporator system* means the multiple-effect evaporators and associated condenser(s) and hotwell(s) used to concentrate the spent cooking liquid that is separated from the pulp (black liquor).

*Neutral sulfite semichemical pulping operation* means any operation in which pulp is produced from wood by cooking (digesting) wood chips in a solution of sodium sulfite and sodium bicarbonate, followed by mechanical defibrating (grinding).

*Recovery furnace* means either a straight kraft recovery furnace or a cross recovery furnace, and includes the direct-contact evaporator for a direct-contact furnace.

*Smelt dissolving tank* means a vessel used for dissolving the smelt collected from the recovery furnace.

*Straight kraft recovery furnace* means a furnace used to recover chemicals

consisting primarily of sodium and sulfur compounds by burning black liquor which on a quarterly basis contains 7 weight percent or less of the total pulp solids from the neutral sulfite semichemical process or has green liquor sulfidity of 28 percent or less.

*Total reduced sulfur (TRS)* means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide that are released during the kraft pulping operation and measured by Method 16 of Appendix A–6 of this part.

**§ 60.282a Standard for filterable particulate matter.**

(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere:

(1) From any modified recovery furnace any gases which:

(i) Contain filterable particulate matter in excess of 0.10 gram per dry standard cubic meter (g/dscm) (0.044 grain per dry standard cubic foot (gr/dscf)) corrected to 8-percent oxygen.

(ii) Exhibit 20-percent opacity or greater, where an electrostatic precipitator (ESP) emission control device is used, except where it is used in combination with a wet scrubber.

(2) From any new or reconstructed recovery furnace any gases which:

(i) Contain filterable particulate matter in excess of 0.034 g/dscm (0.015 gr/dscf) corrected to 8-percent oxygen.

(ii) Exhibit 20-percent opacity or greater, where an ESP emission control device is used, except where it is used in combination with a wet scrubber.

(3) From any modified or reconstructed smelt dissolving tank, or from any new smelt dissolving tank that is not associated with a new or reconstructed recovery furnace subject to the provisions of paragraph (a)(2) of this section, any gases which contain filterable particulate matter in excess of 0.1 gram per kilogram (g/kg) (0.2 pound per ton (lb/ton)) of black liquor solids (dry weight).

(4) From any new smelt dissolving tank associated with a new or reconstructed recovery furnace subject to the provisions of paragraph (a)(2) of this section, any gases which contain filterable particulate matter in excess of 0.060 g/kg (0.12 lb/ton) black liquor solids (dry weight).

(5) From any modified lime kiln any gases which:

(i) Contain filterable particulate matter in excess of 0.15 g/dscm (0.064 gr/dscf) corrected to 10-percent oxygen.

(ii) Exhibit 20-percent opacity or greater, where an ESP emission control device is used, except where it is used in combination with a wet scrubber.

(6) From any new or reconstructed lime kiln any gases which:

(i) Contain filterable particulate matter in excess of 0.023 g/dscm (0.010 gr/dscf) corrected to 10-percent oxygen.

(ii) Exhibit 20-percent opacity or greater, where an ESP emission control device is used, except where it is used in combination with a wet scrubber.

(b) These standards apply at all times as specified in §§ 60.284a and 60.285a.

(c) The exemptions to opacity standards under 40 CFR 60.11(c) do not apply to subpart BBa.

**§ 60.283a Standard for total reduced sulfur (TRS).**

(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart must cause to be discharged into the atmosphere:

(1) From any digester system, brown stock washer system, multiple-effect evaporator system, or condensate stripper system any gases which contain TRS in excess of 5 parts per million (ppm) by volume on a dry basis, corrected to 10-percent oxygen, unless one of the following conditions are met:

(i) The gases are collected in an LVHC or HVLC closed-vent system meeting the requirements of § 63.450 and combusted in a lime kiln subject to the provisions of either paragraph (a)(5) of this section or § 60.283(a)(5); or

(ii) The gases are collected in an LVHC or HVLC closed-vent system meeting the requirements of § 63.450 and combusted in a recovery furnace subject to the provisions of either paragraphs (a)(2) or (3) of this section or § 60.283(a)(2) or (3); or

(iii) The gases are collected in an LVHC or HVLC closed-vent system meeting the requirements of § 63.450 and combusted with other waste gases in an incinerator or other device, or combusted in a lime kiln or recovery furnace not subject to the provisions of this subpart (or subpart BB of this part), and are subjected to a minimum temperature of 650 °C (1200 °F) for at least 0.5 second; or

(iv) It has been demonstrated to the Administrator's satisfaction by the owner or operator that incinerating the exhaust gases from a new, modified, or reconstructed brown stock washer system is technologically or economically unfeasible. Any exempt system will become subject to the provisions of this subpart if the facility is changed so that the gases can be incinerated.

(v) The gases from the digester system, brown stock washer system, or condensate stripper system are collected in an LVHC or HVLC closed-vent system meeting the requirements of § 63.450 and controlled by a means other than combustion. In this case, this system must not discharge any gases to the atmosphere which contain TRS in excess of 5 ppm by volume on a dry basis, uncorrected for oxygen content.

(vi) The uncontrolled exhaust gases from a new, modified, or reconstructed digester system contain TRS less than 0.005 g/kg (0.01 lb/ton) air dried pulp (ADP).

(2) From any straight kraft recovery furnace any gases which contain TRS in excess of 5 ppm by volume on a dry basis, corrected to 8-percent oxygen.

(3) From any cross recovery furnace any gases which contain TRS in excess of 25 ppm by volume on a dry basis, corrected to 8-percent oxygen.

(4) From any smelt dissolving tank any gases which contain TRS in excess of 0.016 g/kg (0.033 lb/ton) of black liquor solids as hydrogen sulfide ($H_2S$).

(5) From any lime kiln any gases which contain TRS in excess of 8 ppm by volume on a dry basis, corrected to 10-percent oxygen.

(b) These standards apply at all times as specified in §§ 60.284a and 60.285a.

**§ 60.284a Monitoring of emissions and operations.**

(a) Any owner or operator subject to the provisions of this subpart must install, calibrate, maintain, and operate the continuous monitoring systems specified in paragraphs (a)(1) and (2) of this section:

(1) A continuous monitoring system to monitor and record the opacity of the gases discharged into the atmosphere from any recovery furnace or lime kiln using an ESP emission control device, except as specified in paragraph (b)(4) of this section. The span of this system must be set at 70-percent opacity. You must install, certify, and operate the continuous opacity monitoring system in accordance with Performance Specification (PS) 1 in Appendix B to 40 CFR part 60.

(2) Continuous monitoring systems to monitor and record the concentration of TRS emissions on a dry basis and the percent of oxygen by volume on a dry basis in the gases discharged into the atmosphere from any lime kiln, recovery furnace, digester system, brown stock washer system, multiple-effect evaporator system, or condensate stripper system, except where the provisions of § 60.283a(a)(1)(iii) or (iv) apply. You must install, certify, and operate the continuous TRS monitoring system in accordance with Performance Specification (PS) 5 in Appendix B to 40

CFR part 60. You must install, certify, and operate the continuous oxygen monitoring system in accordance with Performance Specification (PS) 3 in Appendix B to 40 CFR part 60. These systems must be located downstream of the control device(s). The range of the continuous monitoring system must encompass all expected concentration values, including the zero and span values used for calibration. The spans of these continuous monitoring system(s) must be set:

(i) At a TRS concentration of 30 ppm for the TRS continuous monitoring system, except that for any cross recovery furnace the span must be set at 50 ppm.

(ii) At 21-percent oxygen for the continuous oxygen monitoring system.

(b) Any owner or operator subject to the provisions of this subpart must install, calibrate, maintain, and operate the following continuous parameter monitoring devices specified in paragraphs (b)(1) through (4) of this section.

(1) For any incinerator, a monitoring device for the continuous measurement of the combustion temperature at the point of incineration of effluent gases which are emitted from any digester system, brown stock washer system, multiple effect evaporator system, or condensate stripper system where the provisions of § 60.283a(a)(1)(iii) apply. The monitoring device is to be certified by the manufacturer to be accurate within ±1 percent of the temperature being measured.

(2) For any recovery furnace, lime kiln, or smelt dissolving tank using a wet scrubber emission control device:

(i) A monitoring device for the continuous measurement of the pressure drop of the gas stream through the control equipment. The monitoring device is to be certified by the manufacturer to be accurate to within a gage pressure of ±500 Pascals (±2 inches water gage pressure).

(ii) A monitoring device for the continuous measurement of the scrubbing liquid flow rate. The monitoring device used for continuous measurement of the scrubbing liquid flow rate must be certified by the manufacturer to be accurate within ±5 percent of the design scrubbing liquid flow rate.

(iii) As an alternative to pressure drop measurement under paragraph (b)(2)(i) of this section, a monitoring device for measurement of fan amperage may be used for smelt dissolving tank dynamic scrubbers that operate at ambient pressure or for low-energy entrainment scrubbers where the fan speed does not vary.

(iv) As an alternative to scrubbing liquid flow rate measurement under paragraph (b)(2)(ii) of this section, a monitoring device for measurement of scrubbing liquid supply pressure may be used. The monitoring device is to be certified by the manufacturer to be accurate within ±15 percent of design scrubbing liquid supply pressure. The pressure sensor or tap is to be located close to the scrubber liquid discharge point. The Administrator may be consulted for approval of alternative locations.

(3) For any recovery furnace or lime kiln using an ESP emission control device, the owner or operator must use the continuous parameter monitoring devices specified in paragraphs (b)(3)(i) and (ii) of this section.

(i) A monitoring device for the continuous measurement of the secondary voltage of each ESP collection field.

(ii) A monitoring device for the continuous measurement of the secondary current of each ESP collection field.

(iii) Total secondary power may be calculated as the product of the secondary voltage and secondary current measurements for each ESP collection field and used to demonstrate compliance as an alternative to the secondary voltage and secondary current measurements.

(4) For any recovery furnace or lime kiln using an ESP followed by a wet scrubber, the owner or operator must use the continuous parameter monitoring devices specified in paragraphs (b)(2) and (3) of this section. The opacity monitoring system specified in paragraph (a)(1) of this section is not required for combination ESP/wet scrubber control device systems.

(c) *Monitor operation and calculations.* Any owner or operator subject to the provisions of this subpart must follow the procedures for collecting and reducing monitoring data and setting operating limits in paragraphs (c)(1) through (6) of this section. Subpart A of this part specifies methods for reducing continuous opacity monitoring system data.

(1) Any owner or operator subject to the provisions of this subpart must, except where the provisions of § 60.283a(a)(1)(iii) or (iv) apply, perform the following:

(i) Calculate and record on a daily basis 12-hour average TRS concentrations for the two consecutive periods of each operating day. Each 12-hour average must be determined as the arithmetic mean of the appropriate 12 contiguous 1-hour average TRS concentrations provided by each continuous monitoring system installed under paragraph (a)(2) of this section.

(ii) Calculate and record on a daily basis 12-hour average oxygen concentrations for the two consecutive periods of each operating day for the recovery furnace and lime kiln. These 12- hour averages must correspond to the 12-hour average TRS concentrations under paragraph (c)(1)(i) of this section and must be determined as an arithmetic mean of the appropriate 12 contiguous 1-hour average oxygen concentrations provided by each continuous monitoring system installed under paragraph (a)(2) of this section.

(iii) Using the following equation, correct all 12-hour average TRS concentrations to 10 volume percent oxygen, except that all 12-hour average TRS concentrations from a recovery furnace must be corrected to 8 volume percent oxygen instead of 10 percent, and all 12-hour average TRS concentrations from a facility to which the provisions of § 60.283a(a)(1)(v) apply must not be corrected for oxygen content:

$$C_{corr} = C_{meas} \times (21 - X/21 - Y)$$

Where:

$C_{corr}$ = the concentration corrected for oxygen.

$C_{meas}$ = the 12-hour average of the measured concentrations uncorrected for oxygen.

X = the volumetric oxygen concentration in percentage to be corrected to (8 percent for recovery furnaces and 10 percent for lime kilns, incinerators, or other devices).

Y = the 12-hour average of the measured volumetric oxygen concentration.

(2) Record at least once each successive 5-minute period all measurements obtained from the continuous monitoring devices installed under paragraph (b)(1) of this section. Calculate 3-hour block averages from the recorded measurements of incinerator temperature. Temperature measurements recorded when no TRS emissions are fired in the incinerator (e.g., during incinerator warm-up and cool-down periods when no TRS emissions are generated or an alternative control device is used) may be omitted from the block average calculation.

(3) Record at least once each successive 15-minute period all measurements obtained from the continuous monitoring devices installed under paragraph (b)(2) through (4) of this section and reduce the data as follows:

(i) Calculate 12-hour block averages from the recorded measurements of wet scrubber pressure drop (or smelt dissolving tank scrubber fan amperage)

and liquid flow rate (or liquid supply pressure), as applicable.

(ii) Calculate semiannual averages from the recorded measurements of ESP parameters (secondary voltage and secondary current, or total secondary power) for ESP-controlled recovery furnaces or lime kilns that measure opacity in addition to ESP parameters.

(iii) Calculate 12-hour block averages from the recorded measurements of ESP parameters (secondary voltage and secondary current, or total secondary power) for recovery furnaces or lime kilns with combination ESP/wet scrubber controls.

(4) During the initial performance test required in § 60.285a, the owner or operator must establish site-specific operating limits for the monitoring parameters in paragraphs (b)(2) through (4) of this section by continuously monitoring the parameters and determining the arithmetic average value of each parameter during the performance test. The arithmetic average of the measured values for the three test runs establishes your minimum site-specific operating limit for each wet scrubber or ESP parameter. Multiple performance tests may be conducted to establish a range of parameter values. The owner or operator may establish replacement operating limits for the monitoring parameters during subsequent performance tests using the test methods in § 60.285a.

(5) You must operate the continuous monitoring systems required in paragraphs (a) and (b) of this section to collect data at all required intervals at all times the affected facility is operating except for periods of monitoring system malfunctions or out-of-control periods, repairs associated with monitoring system malfunctions or out-of-control periods, and required monitoring system quality assurance or quality control activities including, as applicable, calibration checks and required zero and span adjustments.

(6) You may not use data recorded during monitoring system malfunctions or out-of-control periods, repairs associated with monitoring system malfunctions or out-of-control periods, or required monitoring system quality assurance or control activities in calculations used to report emissions or operating limits. You must use all the data collected during all other periods in assessing the operation of the control device and associated control system.

(7) Except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, and required quality monitoring system quality assurance or quality control activities (including, as applicable, system accuracy audits and required zero and span adjustments), failure to collect required data is a deviation of the monitoring requirements.

(d) Excess emissions are defined for this subpart as follows:

(1) For emissions from any recovery furnace, periods of excess emissions are:

(i) All 12-hour averages of TRS concentrations above 5 ppm by volume at 8-percent oxygen for straight kraft recovery furnaces and above 25 ppm by volume at 8-percent oxygen for cross recovery furnaces during times when BLS is fired.

(ii) All 6-minute average opacities that exceed 20 percent during times when BLS is fired.

(2) For emissions from any lime kiln, periods of excess emissions are:

(i) All 12-hour average TRS concentrations above 8 ppm by volume at 10-percent oxygen during times when lime mud is fired.

(ii) All 6-minute average opacities that exceed 20 percent during times when lime mud is fired.

(3) For emissions from any digester system, brown stock washer system, multiple-effect evaporator system, or condensate stripper system, periods of excess emissions are:

(i) All 12-hour average TRS concentrations above 5 ppm by volume at 10-percent oxygen unless the provisions of § 60.283a(a)(1)(i), (ii), or (iv) apply; or

(ii) All 3-hour block averages during which the combustion temperature at the point of incineration is less than 650 °C (1200 °F), where the provisions of § 60.283a(a)(1)(iii) apply and an incinerator is used as the combustion device.

(iii) All times when gases are not routed through the closed-vent system to one of the control devices specified in § 60.283a(a)(1)(i) through (iii) and (v).

(4) For any recovery furnace, lime kiln, or smelt dissolving tank controlled with a wet scrubber emission control device that complies with the parameter monitoring requirements specified in § 60.284a(b)(2), periods of excess emissions are:

(i) All 12-hour block average scrubbing liquid flow rate (or scrubbing liquid supply pressure) measurements below the minimum site-specific limit established during performance testing during times when BLS or lime mud is fired (as applicable), and

(ii) All 12-hour block average scrubber pressure drop (or fan amperage, if used as an alternative under paragraph (b)(2)(iii) of this section) measurements below the minimum site-specific limit established during performance testing during times when BLS or lime mud is fired (as applicable), except during startup and shutdown.

(5) For any recovery furnace or lime kiln controlled with an ESP followed by a wet scrubber that complies with the parameter monitoring requirements specified in § 60.284a(b)(4), periods of excess emissions are:

(i) All 12-hour block average scrubbing liquid flow rate (or scrubbing liquid supply pressure) measurements below the minimum site-specific limit established during performance testing during times when BLS or lime mud is fired (as applicable), and

(ii) All 12-hour block average scrubber pressure drop measurements below the minimum site-specific limit established during performance testing during times when BLS or lime mud is fired (as applicable) except during startup and shutdown,

(iii) All 12-hour block average ESP secondary voltage measurements below the minimum site-specific limit established during performance testing during times when BLS or lime mud is fired (as applicable) including startup and shutdown.

(iv) All 12-hour block average ESP secondary current measurements (or total secondary power values) below the minimum site-specific limit established during performance testing during times when BLS or lime mud is fired (as applicable) except during startup and shutdown.

(e) The Administrator will not consider periods of excess emissions reported under § 60.288a(a) to be indicative of a violation of the standards provided the criteria in paragraphs (e)(1) and (2) of this section are met.

(1) The percent of the total number of possible contiguous periods of excess emissions in the semiannual reporting period does not exceed:

(i) One percent for TRS emissions from straight recovery furnaces, provided that the 12-hour average TRS concentration does not exceed 30 ppm corrected to 8-percent oxygen.

(ii) Two percent for average opacities from recovery furnaces, provided that the ESP secondary voltage and secondary current (or total secondary power) averaged over the semiannual period remained above the minimum operating limits established during the performance test.

(iii) One percent for TRS emissions from lime kilns, provided that the 12-hour average TRS concentration does not exceed 22 ppm corrected to 10-percent oxygen.

(iv) One percent for average opacities from lime kilns, provided that the ESP secondary voltage and secondary current (or total secondary power)

averaged over the semiannual period remained above the minimum operating limits established during the performance test.

(v) One percent for TRS emissions from cross recovery furnaces, provided that the 12-hour average TRS concentration does not exceed 50 ppm corrected to 8-percent oxygen.

(vi) For closed-vent systems delivering gases to one of the control devices specified in § 60.283a(a)(1)(i) through (iii) and (v), the time of excess emissions divided by the total process operating time in the semiannual reporting period does not exceed:

(A) One percent for LVHC closed-vent systems; or

(B) Four percent for HVLC closed-vent systems or for HVLC and LVHC closed-vent systems combined.

(2) The Administrator determines that the affected facility, including air pollution control equipment, is maintained and operated in a manner which is consistent with good air pollution control practice for minimizing emissions during periods of excess emissions.

(3) The 12-hour average TRS concentration uncorrected for oxygen may be considered when determining compliance with the excess emission provisions in paragraphs (e)(1)(i) and (iii) of this section during periods of startup or shutdown when the 12-hour average stack oxygen percentage approaches ambient conditions. If the 12-hour average TRS concentration uncorrected for oxygen is less than the applicable limit (5 ppm for recovery furnaces or 8 ppm for lime kilns) during periods of startup or shutdown when the 12-hour average stack oxygen concentration is 15 percent or greater, then the Administrator will consider the TRS average to be in compliance. This provision only applies during periods of affected facility startup and shutdown.

(f) The procedures under § 60.13 must be followed for installation, evaluation, and operation of the continuous monitoring systems required under this section. All continuous monitoring systems must be operated in accordance with the applicable procedures under Performance Specifications 1, 3, and 5 of appendix B of this part.

**§ 60.285a Test methods and procedures.**

(a) In conducting the performance tests required by this subpart and § 60.8, the owner or operator must use as reference methods and procedures the test methods in appendix A of this part or other methods and procedures in this section, except as provided in § 60.8(b). Acceptable alternative methods and procedures are given in paragraph (f) of this section. Section 60.8(c) must be read as follows for purposes of this subpart: Performance tests shall be conducted under such conditions as the Administrator shall specify to the plant operator based on representative performance of the affected facility. The owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of the performance tests. Operations during periods of startup, shutdown and malfunction shall not constitute representative conditions for the purpose of a performance test.

(b) The owner or operator must determine compliance with the filterable particulate matter standards in § 60.282a(a)(1), (2), (5) and (6) as follows:

(1) Method 5 of Appendix A–3 of this part must be used to determine the filterable particulate matter concentration. The sampling time and sample volume for each run must be at least 60 minutes and 0.90 dscm (31.8 dscf). Water must be used as the cleanup solvent instead of acetone in the sample recovery procedure. The particulate concentration must be corrected to the appropriate oxygen concentration according to § 60.284a(c)(3).

(2) The emission rate correction factor, integrated sampling and analysis procedure of Method 3B of Appendix A–2 of this part must be used to determine the oxygen concentration. The gas sample must be taken at the same time and at the same traverse points as the particulate sample.

(3) Method 9 of Appendix A–4 of this part and the procedures in § 60.11 must be used to determine opacity. Opacity measurement is not required for recovery furnaces or lime kilns operating with a wet scrubber alone or a wet scrubber in combination with an ESP.

(4) In addition to the initial performance test required by this subpart and § 60.8(a), you must conduct repeat performance tests for filterable particulate matter at intervals no longer than 5 years following the previous performance test using the procedures in paragraphs (b)(1) and (2) of this section.

(5) When the initial and repeat performance tests are conducted for filterable particulate matter, the owner or operator must also measure condensable particulate matter using Method 202 of Appendix M of 40 CFR part 51.

(c) The owner or operator must determine compliance with the filterable particular matter standards in § 60.282a(a)(3) and (4) as follows:

(1) The emission rate (E) of filterable particulate matter must be computed for each run using the following equation:

$$E = c_s Q_{sd}/BLS$$

Where:

E = emission rate of filterable particulate matter, g/kg (lb/ton) of BLS.

$c_s$ = Concentration of filterable particulate matter, g/dscm (lb/dscf).

$Q_{sd}$ = volumetric flow rate of effluent gas, dry standard cubic meter per hour (dscm/hr) (dry standard cubic feet per hour (dscf/hr)).

BLS = black liquor solids (dry weight) feed rate, kg/hr (ton/hr).

(2) Method 5 of Appendix A–3 of this part must be used to determine the filterable particulate matter concentration ($c_s$) and the volumetric flow rate ($Q_{sd}$) of the effluent gas. The sampling time and sample volume must be at least 60 minutes and 0.90 dscm (31.8 dscf). Water must be used instead of acetone in the sample recovery.

(3) Process data must be used to determine the black liquor solids (BLS) feed rate on a dry weight basis.

(4) In addition to the initial performance test required by this subpart and § 60.8(a), you must conduct repeat performance tests for filterable particulate matter at intervals no longer than 5 years following the previous performance test using the procedures in paragraphs (c)(1) through (3) of this section.

(5) When the initial and repeat performance tests are conducted for filterable particulate matter, the owner or operator must also measure condensable particulate matter using Method 202 of Appendix M of 40 CFR part 51.

(d) The owner or operator must determine compliance with the TRS standards in § 60.283a, except § 60.283a(a)(1)(vi) and (4), as follows:

(1) Method 16 of Appendix A–6 of this part must be used to determine the TRS concentration. The TRS concentration must be corrected to the appropriate oxygen concentration using the procedure in § 60.284a(c)(3). The sampling time must be at least 3 hours, but no longer than 6 hours.

(2) The emission rate correction factor, integrated sampling and analysis procedure of Method 3B of Appendix A–2 of this part must be used to determine the oxygen concentration. The sample must be taken over the same time period as the TRS samples.

(3) When determining whether a furnace is a straight kraft recovery furnace or a cross recovery furnace, TAPPI Method T 624 (incorporated by reference—see § 60.17) must be used to determine sodium sulfide, sodium

hydroxide, and sodium carbonate. These determinations must be made 3 times daily from the green liquor, and the daily average values must be converted to sodium oxide ($Na_20$) and substituted into the following equation to determine the green liquor sulfidity:

$$GLS=100C_{Na_2S}/(C_{Na_2S}C_{NaOH}C_{Na_2CO_3})$$

Where:

GLS = green liquor sulfidity, percent.
$C_{Na_2S}$ = concentration of $Na_2S$ as $Na_2O$, milligrams per liter (mg/L) (grains per gallon (gr/gal)).
$C_{NaOH}$ = concentration of NaOH as $Na_2O$, mg/L (gr/gal).
$C_{Na_2CO_3}$ = concentration of $Na_2CO_3$ as $Na_2O$, mg/L (gr/gal).

(4) For recovery furnaces and lime kilns, in addition to the initial performance test required in this subpart and § 60.8(a), you must conduct repeat TRS performance tests at intervals no longer than 5 years following the previous performance test using the procedures in paragraphs (d)(1) and (2) of this section.

(e) The owner or operator must determine compliance with the TRS standards in § 60.283a(a)(1)(vi) and (4) as follows:

(1) The emission rate (E) of TRS must be computed for each run using the following equation:

$$E=C_{TRS}\ F\ Q_{sd}/P$$

Where:

E = emission rate of TRS, g/kg (lb/ton) of BLS or ADP.
CTRS = average combined concentration of TRS, ppm.
F = conversion factor, 0.001417 g $H_2S$/cubic meter ($m^3$)-ppm ($8.846 \times 10^{-8}$ lb $H_2S$/cubic foot ($ft^3$)-ppm).
$Q_{sd}$ = volumetric flow rate of stack gas, dscm/hr (dscf/hr).
P = black liquor solids feed or pulp production rate, kg/hr (ton/hr).

(2) Method 16 of Appendix A–6 of this part must be used to determine the TRS concentration ($C_{TRS}$).

(3) Method 2 of Appendix A–1 of this part must be used to determine the volumetric flow rate ($Q_{sd}$) of the effluent gas.

(4) Process data must be used to determine the black liquor feed rate or the pulp production rate (P).

(5) For smelt dissolving tanks, in addition to the initial performance test required in this subpart and § 60.8(a), you must conduct repeat TRS performance tests at intervals no longer than 5 years following the previous performance test using the procedures in paragraphs (e)(1) through (4) of this section.

(f) The owner or operator may use the following as alternatives to the reference methods and procedures specified in this section:

(1) In place of Method 5 of Appendix A–3 of this part, Method 17 of Appendix A–6 of this part may be used if a constant value of 0.009 g/dscm (0.004 gr/dscf) is added to the results of Method 17 and the stack temperature is no greater than 204°C (400 °F).

(2) In place of Method 16 of Appendix A–6 of this part, Method 16A, 16B, or 16C of Appendix A–6 of this part may be used.

(3) In place of Method 3B of Appendix A–2 of this part, ASME PTC 19.10–1981 (incorporated by reference—see § 60.17) may be used.

### § 60.286a Affirmative Defense for Violations of Emission Standards During Malfunction.

In response to an action to enforce the standards set forth in §§ 60.282a and 60.283a, you may assert an affirmative defense to a claim for civil penalties for violations of such standards that are caused by malfunction, as defined at § 60.2. Appropriate penalties may be assessed if you fail to meet your burden of proving all of the requirements in the affirmative defense. The affirmative defense must not be available for claims for injunctive relief.

(a) *Assertion of affirmative defense.* To establish the affirmative defense in any action to enforce such a standard, you must timely meet the reporting requirements in paragraph (b) of this section, and must prove by a preponderance of evidence that:

(1) The violation:

(i) Was caused by a sudden, infrequent, and unavoidable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner; and

(ii) Could not have been prevented through careful planning, proper design or better operation and maintenance practices; and

(iii) Did not stem from any activity or event that could have been foreseen and avoided, or planned for; and

(iv) Was not part of a recurring pattern indicative of inadequate design, operation, or maintenance; and

(2) Repairs were made as expeditiously as possible when a violation occurred; and

(3) The frequency, amount, and duration of the violation (including any bypass) were minimized to the maximum extent practicable; and

(4) If the violation resulted from a bypass of control equipment or a process, then the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and

(5) All possible steps were taken to minimize the impact of the violation on ambient air quality, the environment, and human health; and

(6) All emission monitoring and control systems were kept in operation if at all possible, consistent with safety and good air pollution control practices; and

(7) All of the actions in response to the violation were documented by properly signed, contemporaneous operating logs; and

(8) At all times, the affected source was operated in a manner consistent with good practices for minimizing emissions; and

(9) A written root cause analysis has been prepared, the purpose of which is to determine, correct, and eliminate the primary causes of the malfunction and the violation resulting from the malfunction event at issue. The analysis must also specify, using best monitoring methods and engineering judgment, the amount of any emissions that were the result of the malfunction.

(b) *Report.* The owner or operator seeking to assert an affirmative defense must submit a written report to the Administrator with all necessary supporting documentation that explains how it has met the requirements set forth in paragraph (a) of this section. This affirmative defense report must be included in the first periodic compliance, deviation report or excess emission report otherwise required after the initial occurrence of the violation of the relevant standard (which may be the end of any applicable averaging period). If such compliance, deviation report or excess emission report is due less than 45 days after the initial occurrence of the violation, the affirmative defense report may be included in the second compliance, deviation report or excess emission report due after the initial occurrence of the violation of the relevant standard.

### § 60.287a Recordkeeping.

(a) The owner or operator must maintain records of the performance evaluations of the continuous monitoring systems.

(b) For each continuous monitoring system, the owner or operator must maintain records of the following information, as applicable:

(1) Records of the opacity of the gases discharged into the atmosphere from any recovery furnace or lime kiln using an ESP emission control device, except as specified in paragraph (b)(6) of this section, and records of the ESP secondary voltage and secondary current (or total secondary power) averaged over the reporting period for the opacity allowances specified in § 60.284a(e)(1)(ii) and (iv).

(2) Records of the concentration of TRS emissions on a dry basis and the percent of oxygen by volume on a dry basis in the gases discharged into the atmosphere from any lime kiln, recovery furnace, digester system, brown stock washer system, multiple-effect evaporator system, or condensate stripper system, except where the provisions of § 60.283a(a)(1)(iii) or (iv) apply.

(3) Records of the incinerator combustion temperature at the point of incineration of effluent gases which are emitted from any digester system, brown stock washer system, multiple effect evaporator system, or condensate stripper system where the provisions of § 60.283a(a)(1)(iii) apply and an incinerator is used as the combustion device.

(4) For any recovery furnace, lime kiln, or smelt dissolving tank using a wet scrubber emission control device:

(i) Records of the pressure drop of the gas stream through the control equipment (or smelt dissolving tank scrubber fan amperage), and

(ii) Records of the scrubbing liquid flow rate (or scrubbing liquid supply pressure).

(5) For any recovery furnace or lime kiln using an ESP control device:

(i) Records of the secondary voltage of each ESP collection field, and

(ii) Records of the secondary current of each ESP collection field, and

(iii) If used as an alternative to secondary voltage and current, records of the total secondary power of each ESP collection field.

(6) For any recovery furnace or lime kiln using an ESP followed by a wet scrubber, the records specified under paragraphs (b)(4) and (5) of this section.

(7) Records of excess emissions as defined in § 60.284a(d).

(c) For each malfunction, the owner or operator must maintain records of the following information:

(1) Records of the occurrence and duration of each malfunction of operation (i.e., process equipment) or the air pollution control and monitoring equipment.

(2) Records of actions taken during periods of malfunction to minimize emissions in accordance with § 60.11(d), including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation.

**§ 60.288a Reporting.**

(a) For the purpose of reports required under § 60.7(c), any owner or operator subject to the provisions of this subpart must report semiannually periods of excess emissions defined in § 60.284a(d).

(b) Within 60 days after the date of completing each performance test (defined in § 60.8) as required by this subpart you must submit the results of the performance tests, including any associated fuel analyses, required by this subpart to the EPA as follows. You must use the latest version of the EPA's Electronic Reporting Tool (ERT) (see *http://www.epa.gov/ttn/chief/ert/index.html*) existing at the time of the performance test to generate a submission package file, which documents performance test data. You must then submit the file generated by the ERT through the EPA's Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed by logging in to the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). Only data collected using test methods supported by the ERT as listed on the ERT Web site are subject to the requirement to submit the performance test data electronically. Owners or operators who claim that some of the information being submitted for performance tests is confidential business information (CBI) must submit a complete ERT file including information claimed to be CBI on a compact disk, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: WebFIRE Administrator, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT file with the CBI omitted must be submitted to the EPA via CDX as described earlier in this paragraph (b). At the discretion of the delegated authority, you must also submit these reports, including the CBI, to the delegated authority in the format specified by the delegated authority. For any performance test conducted using test methods that are not listed on the ERT Web site, the owner or operator must submit the results of the performance test to the Administrator at the appropriate address listed in § 60.4.

(c) Within 60 days after the date of completing each CEMS performance evaluation test as defined in § 60.13, you must submit relative accuracy test audit (RATA) data to the EPA's Central Data Exchange (CDX) by using CEDRI in accordance with paragraph (b) of this section. Only RATA pollutants that can be documented with the ERT (as listed on the ERT Web site) are subject to this requirement. For any performance evaluations with no corresponding RATA pollutants listed on the ERT Web site, the owner or operator must submit the results of the performance evaluation to the Administrator at the appropriate address listed in § 60.4.

(d) If a malfunction occurred during the reporting period, you must submit a report that contains the following:

(1) The number, duration, and a brief description for each type of malfunction which occurred during the reporting period and which caused or may have caused any applicable emission limitation to be exceeded.

(2) A description of actions taken by an owner or operator during a malfunction of an affected facility to minimize emissions in accordance with § 60.11(d), including actions taken to correct a malfunction.

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# FEDERAL REGISTER

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Part III

## The President

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# Presidential Documents

**Title 3—**

**The President**

**Proclamation 9093 of March 31, 2014**

## National Cancer Control Month, 2014

**By the President of the United States of America**

**A Proclamation**

Over the past two decades, our Nation has achieved great progress in the fight against cancer. Americans have better tools to decrease their risk, and medical advances have made many forms of cancer more preventable, detectable, and treatable than ever. Despite these strides, cancer remains the second leading cause of death in our country. During National Cancer Control Month, we redouble our efforts to boost awareness, improve care, and help more Americans win their battles against cancer.

While it is impossible to completely eliminate the risk of cancer, we can take action to reduce our chances of developing this disease. Not smoking, eating a healthy diet rich in fruit and vegetables, getting regular exercise, and limiting alcohol consumption and sun exposure can decrease the risk of certain cancers while also keeping us healthy day-to-day. A half century after the Surgeon General's landmark Report on Smoking and Health, our Nation has cut tobacco use rates in half. Yet smoking still causes one out of three cancer deaths. For advice on how to quit smoking, visit BeTobaccoFree.gov or SmokeFree.gov, or call 1–800–QUIT–NOW. I also encourage Americans to go to www.Cancer.gov for more information on cancer prevention.

Because the best way to beat many forms of this disease is to catch the cancer in its early stages, my Administration has taken steps to make cancer screenings more available and affordable. The Affordable Care Act requires most insurance plans to cover recommended preventive services, like cancer screenings, at no out-of-pocket cost to the patient. It also bans discrimination against people with pre-existing conditions, including cancer, and eliminates lifetime and annual dollar limits on key benefits. Thanks to this law, millions of Americans now have access to affordable health insurance—many of them for the first time. In addition to expanding access to health care, we are investing in promising medical research. Each year, we devote billions of dollars toward investigating causes of cancer and unlocking better prevention, detection, and treatment methods.

This month, let us renew our push to defeat cancer, honor those we have lost, lend our support to survivors, and bring new hope to all those struggling with this disease.

The Congress of the United States, by joint resolution approved March 28, 1938 (52 Stat. 148; 36 U.S.C. 103), as amended, has requested the President to issue an annual proclamation declaring April as ''Cancer Control Month.''

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim April 2014 as National Cancer Control Month. I encourage citizens, government agencies, private businesses, nonprofit organizations, and other interested groups to join in activities that will increase awareness of what Americans can do to prevent and control cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of March, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

[FR Doc. 2014–07777
Filed 4–3–14; 11:15 am]
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# Presidential Documents

**Proclamation 9094 of March 31, 2014**

## National Child Abuse Prevention Month, 2014

**By the President of the United States of America**

**A Proclamation**

In the United States of America, every child should have every chance in life, every chance at happiness, and every chance at success. Yet tragically, hundreds of thousands of young Americans shoulder the burden of abuse or neglect. As a Nation, we must do better. During National Child Abuse Prevention Month, we strengthen our resolve to give every young person the security, opportunity, and bright future they deserve.

We all have a role to play in preventing child abuse and neglect and in helping young victims recover. From parents and guardians to educators and community leaders, each of us can help carve out safe places for young people to build their confidence and pursue their dreams. I also encourage Americans to be aware of warning signs of child abuse and neglect, including sudden changes in behavior or school performance, untreated physical or medical issues, lack of adult supervision, and constant alertness, as though preparing for something bad to happen. To learn more about how you can prevent child abuse, visit www.ChildWelfare.gov/Preventing.

Raising a healthy next generation is both a moral obligation and a national imperative. That is why my Administration is building awareness, strengthening responses to child abuse, and translating science and research—what we know works for kids and families—into practice. I also signed legislation to create the Commission to Eliminate Child Abuse and Neglect Fatalities, and we are providing additional resources and training to State and local governments and supporting extensive research into the causes and long-term consequences of abuse and neglect.

Our Nation thrives when we recognize that we all have a stake in each other. This month and throughout the year, let us come together—as families, communities, and Americans—to ensure every child can pursue their dreams in a safe and loving home.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim April 2014 as National Child Abuse Prevention Month. I call upon all Americans to observe this month with programs and activities that help prevent child abuse and provide for children's physical, emotional, and developmental needs.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of March, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

[FR Doc. 2014–07778
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# Presidential Documents

**Proclamation 9095 of March 31, 2014**

## National Donate Life Month, 2014

**By the President of the United States of America**

**A Proclamation**

Each day, in quiet hospital rooms and busy offices, in familiar sanctuaries and family living rooms, people make the courageous decision to give the gift of life. After passing his first driving test, an elated teenager adds a lifesaving symbol to his license. While struggling to comprehend their own loss, grieving parents choose to help another child live. During National Donate Life Month, we celebrate those who provide vital organ, eye, and tissue donations, and we bring new hope to the growing list of men, women, and children who still need a donation.

More than 120,000 Americans are now on the transplant list, and each day, 18 of them die waiting. The individuals in need of these donations are our moms, dads, brothers, sisters, children, and friends—someone important to us or someone else. I encourage all Americans to think about their loved ones and to consider becoming a donor. Discuss your decision with those close to you, and if you decide to donate, visit www.OrganDonor.gov and sign up in your State's donor registry.

Every donor can save up to eight lives, and thanks to scientific advances, we have the potential to help even more people in need. Last year, I signed the HIV Organ Policy Equity Act, which allows scientists to research organ donation from one person with human immunodeficiency virus (HIV) to another. Ultimately, this law could save lives—permitting donations between people living with HIV and expanding opportunities for more Americans to participate in these life-saving efforts.

As a Nation, let us shine a light on the power of donation. Let us lift up the friends and families of donors and remember those who ensured that in their death, others received life.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim April 2014 as National Donate Life Month. I call upon health care professionals, volunteers, educators, government agencies, faith-based and community groups, and private organizations to join forces to boost the number of organ and tissue donors throughout our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of March, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

[FR Doc. 2014–07780
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# Presidential Documents

**Proclamation 9096 of March 31, 2014**

## National Financial Capability Month, 2014

**By the President of the United States of America**

**A Proclamation**

Thanks to the grit and determination of the American people, our Nation has cleared away the rubble of the worst recession since the Great Depression. As we continue to create jobs and grow our economy, families strive to rebuild their finances and shore up their futures. During National Financial Capability Month, we renew our drive to give all Americans the tools to navigate the financial world and gain the economic freedom to pursue their own measure of happiness.

In today's economy, financial capability is essential for some of life's biggest transitions—paying for college, buying a home, saving for retirement. A solid understanding of the marketplace makes it easier to avoid scams, spot misleading information, and decipher complex paperwork. For free resources on managing money and making the best decisions for you, visit www.MyMoney.gov and www.ConsumerFinance.gov, or call 1–888–MyMoney.

My Administration is working alongside businesses, schools, and community leaders to empower Americans with financial information. We launched the ''Know Before You Owe'' campaign to make student loans more transparent and created myRA, an affordable savings bond that encourages Americans to begin building nest eggs and allows them to carry their account between jobs. And we continue to take action against companies that charge hidden fees or deceive consumers with barely understandable fine print.

We must also ensure that Americans have the means to put their financial understanding to use. Thanks to the Affordable Care Act, millions can finally live secure in the knowledge that they are no longer an illness or injury away from bankruptcy. Yet for those who work full-time, make minimum wage, and still live in poverty, budgets do not stretch far enough to leave room for investments. This month, as we improve financial capability throughout our Nation, let us also advance the opportunity agenda—new jobs in tomorrow's industries, more access to job training, a world-class education for every child, and an economy where hard work pays off for every American.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim April 2014 as National Financial Capability Month. I call upon all Americans to observe this month with programs and activities to improve their understanding of financial principles and practices.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of March, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

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# Presidential Documents

**Proclamation 9097 of March 31, 2014**

## National Sexual Assault Awareness and Prevention Month, 2014

**By the President of the United States of America**

**A Proclamation**

Every April, our Nation comes together to renew our stand against a crime that affronts our basic decency and humanity. Sexual assault threatens every community in America, and we all have a role to play in protecting those we love most—our mothers and fathers, our husbands and wives, our daughters and sons. During National Sexual Assault Awareness and Prevention Month, we recommit to ending the outrage of sexual assault, giving survivors the support they need to heal, and building a culture that never tolerates sexual violence.

Thanks to dedicated activists and courageous survivors, we have made strides in reducing stigma, opened new shelters across our country, and given countless Americans a new sense of hope. A driving force behind much of this progress was the landmark Violence Against Women Act. Last year, I was proud to sign legislation that reauthorized and strengthened this law while also extending protections for underserved communities.

We have come a long way, but sexual violence remains an all-too-common tragedy. Today, an estimated one in five women is sexually assaulted in college. This is unacceptable. Because college should be a place where everyone can safely and confidently pursue their talents, I launched the White House Task Force to Protect Students from Sexual Assault. And because our Nation's backlog of rape kits means offenders may be free to strike again, I have proposed funding for coordinated community teams to address this problem. My Administration is working to stop sexual assaults wherever they occur, in both the civilian community and the Armed Forces. Together, we will continue to strengthen the criminal justice system, develop trauma-informed services, reach out to survivors, and focus aggressively on prevention.

Sexual assault is more than just a crime against individuals. When a young boy or girl withdraws because they are questioning their self-worth after an assault, that deprives us of their full potential. When a parent struggles to hold a job in the wake of a traumatic attack, the whole family suffers. And when a student drops out of school or a service member leaves the military because they were sexually assaulted, that is a loss for our entire Nation.

This month, let us recognize that we all have a stake in preventing sexual assault, and we all have the power to make a difference. Together, let us stand for dignity and respect, strengthen the fabric of our communities, and build a safer, more just world.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim April 2014 as National Sexual Assault Awareness and Prevention Month. I urge all Americans to support survivors of sexual assault and work together to prevent these crimes in their communities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of March, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

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**Federal Register**

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